

2001 DRAFTING REQUEST

Bill

Received: **01/05/2001**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-5878**

By/Representing: **Dombrowski**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous**

Extra Copies:

Pre Topic:

DOA:.....Dombrowski -

Topic:

State procurement changes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/13/2001	wjackson 01/13/2001		_____			S&L
/1			kfollet 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L
			kfollet 01/15/2001	_____			
/2	kuesejt 01/30/2001	hhagen 01/31/2001	kfollet 01/31/2001	_____	lrb_docadmin 01/31/2001		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/3	kuesejt 02/05/2001	wjackson 02/05/2001	rschluct 02/05/2001	_____	lrb_docadmin 02/05/2001		

FE Sent For:

<END>

2001 DRAFTING REQUEST

Bill

Received: **01/05/2001**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-5878**

By/Representing: **Dombrowski**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous**

Extra Copies:

Pre Topic:

DOA:.....Dombrowski -



Topic:

State procurement changes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/13/2001	wjackson 01/13/2001		_____			S&L
/1			kfollet 01/14/2001	_____	lrb_docadmin 01/15/2001		S&L
			kfollet 01/15/2001	_____			
/2	kuesejt 01/30/2001	hhagen 01/31/2001	kfollet 01/31/2001	_____	lrb_docadmin 01/31/2001		
		1/3 2/5 WLj		 CH			
			2-5-1	2-5-1			

2001 DRAFTING REQUEST

Bill

Received: 01/05/2001

Received By: kuesejt

Wanted: Soon

Identical to LRB:

For: Administration-Budget 6-5878

By/Representing: Dombrowski

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters:

Subject: State Government - miscellaneous

Extra Copies:

Pre Topic:

DOA: Dombrowski -

Topic:

State procurement changes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/13/2001	wjackson 01/13/2001					S&L
/1		12 kmk 1/31/01	kfollet 01/14/2001		lrb_docadmin 01/15/2001		
			kfollet 01/15/2001				

FE Sent For:

Handwritten signatures and dates: klf 1/31, klf/pg 1/31

NOTE

2001 DRAFTING REQUEST

Bill

Received: **01/05/2001**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-5878**

By/Representing: **Dombrowski**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Alt. Drafters:

Subject: **State Government - miscellaneous**

Extra Copies:

Pre Topic:

DOA:.....Dombrowski -

Topic:

State procurement changes

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
12/1	kuesejt 1/13	1 WLJ 1/13	Kyf 1/14	Ky/Ch 2/1/14			

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 5, 2001
To: Steve Miller, LRB
From: Cynthia Dombrowski, DOA CD
266-5878
Subject: Statutory Language for DOA

Please draft language which would convert the State Bureau of Procurement in DOA from GPR to PR. Please find attached drafting instructions. Please let me know if you have any questions or if I can be of further assistance.

Thank you.

2001-2003 Drafting Instructions -- E-Procurement Program Activities in DOAFunding and staffing

- ✓ 1. Create a continuing PR-S appropriation under 20.505(1) for procurement programs administered by the department of administration primarily for state agencies, including but not limited to: procurement of goods and services; administration of state surplus property programs by the department on behalf of any agency; administration of electronic bidding for any state agency; reverse auctions; collection and administration of statewide procurement data; and other related statewide procurement support activities primarily for state agencies. Permit revenues from fees assessed by DOA for services rendered primarily to agencies to be deposited in this appropriation, including identified savings in any agency procurement activity resulting from systems and services provided by DOA in cooperation with any agency. Make this appropriation effective July 1, 2001.
- ✓ 2. Convert all base GPR positions in DOA that support the provision of statewide procurement services from current appropriation(s) to the new PR-S appropriation created under (1) above. Provide for the protection of classified position incumbents using standard language to ensure that no additional probation need be served, all rights are preserved, etc. Provide for the standard transfer of equipment, assets and liabilities from the sending operation to the new PR-S operation. Make this provision effective July 1, 2002. [Technical note: this includes current GPR positions in the State Bureau of Procurement as well as any other position supporting procurement activity. Technical Budget System B-2/B-10 documents provide identification of the current position authority that would be transferred.]

Program Authority and Assessment of Charges or Fees

- ✓ 3. Modify current statutes to permit the department to conduct Internet Bidding, maintain a statewide bidders list, and charge additional fees to vendors:

Amend s. 16.75(6)(b) as follows:

(b) If the secretary determines that it is in the best interest of this state to do so, he or she may waive the requirements of subs. (1) to (5) and may purchase supplies, materials, equipment or contractual services, other than printing and stationery, from another state, from any county, city, village, town or other governmental body in this state or from a regional or national consortium composed of nonprofit institutions that support governmental or educational services, or through a contract established by one of those entities with one or more 3rd parties. He or she may also waive the requirements of subs. (1) to (5) and may authorize real time competitive bidding procedures utilizing electronic web-based technology.

✓ *Amend s. 16.7015 as follows:*

16.7015 Bidders list. The department may maintain a single statewide bidders list or any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list which 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 agency for the procurement of materials, supplies, equipment or contractual services

under this subchapter. Any 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 to be solicited by any agency. The department or other agency shall notify each person on its list of all requests for bids or competitive sealed proposals by the department or other agency. The department or other agency may remove any person from its list for cause.

✓ *Amend s. 16.701 as follows:*

16.701. Subscription service. The department may provide a subscription service containing current information of interest to prospective vendors concerning state procurement opportunities. If the department provides the service, the department shall assist small businesses, as defined in s. 16.75 (4) (c), who are prospective vendors in accessing and using the service by providing facilities or services to the businesses. The department may charge a fee for any such service and ~~The department~~ shall prescribe the amount of any such fee by rule. The department may also by rule charge vendors additional fees to allow the posting of product or service information.

✓ 4. Under Chapter 16 procurement law, apart from s.16.701, authorize the Secretary to determine rates assessed to all state and local government agencies for statewide procurement-related support services and systems provided by the department. Provide for the deposit of such fee or service revenues to the appropriation under paragraph 1, above.

✓ 5. Create Non-Statutory Provision that provides for the following:

The department shall provide a status report to the Governor and the Joint Committee on Finance pertaining to e-procurement and e-commerce programs and activities administered by the department. The report shall identify both costs and benefits of such program efforts for the fiscal year ending June 30, 2003, including an assessment of the effectiveness of executive agency efforts to increase the volume of such activity.

2001

Date (time) needed

NOTE
SOON

LRB- 1823, 1

DOA BUDGET DRAFT

JR: WLj:

Use the appropriate components and routines developed for bills.

>>FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT ... [DO NOT generate catalog]; relating to: ^{state} ~~the budget~~ ^{procurement} ~~services~~ and electronic commerce activities, authorizing state distribution of vendor product or service information, granting rule-making authority and making an appropriation.

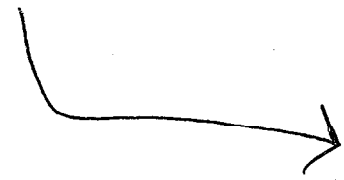
Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

- For the main heading, execute: create → anal: → title: → head
- For the subheading, execute: create → anal: → title: → sub
- For the sub-subheading, execute: create → anal: → title: → sub-sub

For the analysis text, in the component bar:

- For the text paragraph, execute: create → anal: → text



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

SECTION #.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/lins2
JTK.....

→
STATE GOVERNMENT
OTHER STATE GOVERNMENT

Currently, DOA provides procurement services to state agencies and some local governments. These procurement functions are financed with general purpose revenue. This bill permits DOA to assess any state agency or local government to which it provides procurement services for the cost of the services provided to the agency or local government. The bill also permits DOA to identify savings that were realized by any state agency to which it provides procurement services, determined on the basis of the costs the agency would have incurred had the agency provided the services to itself or contracted for the services, and to assess the agency for the amount of the savings so identified. The bill appropriates to DOA all moneys collected from these assessments, to be used to finance procurement services. The change potentially decreases the moneys available to agencies and local governments for other purposes.

Currently, DOA maintains a subscription service ^{that} ~~which~~ provides current information of interest to prospective vendors^s concerning state procurement opportunities. This bill permits DOA to permit prospective vendors to provide product or service information through this service and also permits DOA to prescribe, by rule, fees ^{set in} ~~which~~ DOA may collect for the use of the service. Any revenue collected from the fee assessments is deposited in the state VendorNet fund, which is used to pay the costs of the subscription service.

In addition, the bill directs DOA to report to the governor and the cochairpersons of JCF concerning the status of the electronic procurement and commerce activities of DOA. The report must include an assessment of the costs and benefits of these activities for the 2002-03 fiscal year^s and an assessment of the success of state executive branch agencies in increasing the volume of these activities.

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

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/lins
JTK.....

SECTION 1. 16.701[↓] of the statutes is renumbered 16.701 (1).[✓]

SECTION 2. 16.701 (2)[↓] of the statutes is created to read:

16.701 (2) The department may permit prospective vendors to provide product or service information through the service established under sub. (1).[✓] The department may, by rule, prescribe fees which the department may collect for the use of the service under this subsection.

SECTION 3. 16.71 (6)[↓] of the statutes is created to read:

16.71 (6) The department may assess any agency or municipality to which it provides services under this subchapter for the cost of the services provided to the agency or municipality. The department may also identify savings that were realized by an agency to which it provides services under this subchapter for any given period, determined on the basis of the costs that the agency would have incurred had the agency provided the services to itself or contracted for the services, and may assess the agency for the amount of the savings identified by the department for that period.

SECTION 4. 16.75 (2m) (f)[↓] of the statutes is amended to read:

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

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197.

SECTION 5. 20.505 (1) (kf)[↓] of the statutes is created to read:

20.505 (1) (kf) *Procurement services.* All moneys received from state agencies under s. 16.71 (6) for procurement services provided by the department to the agencies and from assessments for procurement savings realized by the agencies

receiving those services, for administration of the department's procurement functions under subch. IV of ch. 16.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 6. 25.61¹ of the statutes is amended to read:

25.61 VendorNet fund. There is created a separate nonlapsible trust fund designated as the VendorNet fund consisting of all revenues accruing to the state from fees assessed under s. ss. 16.701 and 16.702 (1)¹ and from gifts, grants and bequests made for the purposes of s. ss. 16.701 and 16.702 (1)¹ and moneys transferred to the fund from other funds.

History: 1995 a. 27, 351; 1997 a. 36; 1999 a. 9.

SECTION 9401. Nonstatutory provisions; administration

(1) **ELECTRONIC PROCUREMENT AND COMMERCE ACTIVITIES.** The department of administration shall report to the governor and the cochairpersons of the joint committee on finance concerning the status of the electronic procurement and commerce activities of the department. The department shall include in the report an assessment of the costs and benefits of those activities for the 2002-03 fiscal year and an assessment of the effectiveness of state executive branch agencies in increasing the volume of those activities.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/1dn

JTK.../.....

Wlj

Cynthia Dombrowski:

1. Proposed s. 16.71 (6) authorizes assessments of [state] agencies and municipalities (local governments) for the cost of procurement services provided to the agencies and local governments. Under the draft, revenues received from agencies are credited to the appropriation account under proposed s. 20.505 (1) (kf). Revenues received from municipalities are PR, not PR-S, and are credited to the appropriation account under s. 20.505 (1) (im), stats.

(v)

2. The instructions specified "[c]onvert all... positions *in DOA* that support... statewide procurement services...to the new PR-S appropriation...this includes current...positions...in the...Bureau of Procurement as well as any other position supporting procurement activity." Because, in the budget bill, no draft is required to transfer funding for positions within an agency and the incumbents lose no rights when the funding source for a position is changed, this draft does not address this issue.

LPS:
Please
check
spacing

3. Under s. 137.05, stats., DOA or any agency to which DOA delegates purchasing authority may accept bids or competitive sealed proposals electronically, unless specifically prohibited by law. A recent federal law, the Electronic Commerce in Global and National Communications Act ("E Sign") may also impact this situation although the application of that law is unclear. Nothing in s. 16.75, stats., appears to preclude electronic bidding. In addition, under s. 16.75 (6) (c) to (e), stats., the secretary and governor have authority to waive compliance with most procurement laws. Therefore, this draft does not specifically address the issue of electronic bidding, except that in s. 16.75 (2m) (f), stats., reference to "opening" of competitive sealed proposals is changed to "examining".

change
to
open
quotes

4. Concerning the proposal to change s. 16.7015, stats., to specifically reference a statewide bidders list, this is authorized under the current language of that section. Therefore, this draft does not treat that issue.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/1dn
JTK:wlj:kjf

January 14, 2001

Cynthia Dombrowski:

1. Proposed s. 16.71 (6) authorizes assessments of [state] agencies and municipalities (local governments) for the cost of procurement services provided to the agencies and local governments. Under the draft, revenues received from agencies are credited to the appropriation account under proposed s. 20.505 (1) (kf). Revenues received from municipalities are PR, not PR-S, and are credited to the appropriation account under s. 20.505 (1) (im), stats.
2. The instructions specified “[c]onvert all ... positions *in DOA* that support ... statewide procurement services ... to the new PR-S appropriation ... this includes current ... positions ... in the ... Bureau of Procurement as well as any other position supporting procurement activity.” Because, in the budget bill, no draft is required to transfer funding for positions within an agency, and the incumbents lose no rights when the funding source for a position is changed, this draft does not address this issue.
3. Under s. 137.05, stats., DOA or any agency to which DOA delegates purchasing authority may accept bids or competitive sealed proposals electronically, unless specifically prohibited by law. A recent federal law, the Electronic Commerce in Global and National Communications Act (“E Sign”) may also impact this situation although the application of that law is unclear. Nothing in s. 16.75, stats., appears to preclude electronic bidding. In addition, under s. 16.75 (6) (c) to (e), stats., the secretary and governor have authority to waive compliance with most procurement laws. Therefore, this draft does not specifically address the issue of electronic bidding, except that in s. 16.75 (2m) (f), stats., reference to “opening” of competitive sealed proposals is changed to “examining.”
4. Concerning the proposal to change s. 16.7015, stats., to specifically reference a statewide bidders list, this is authorized under the current language of that section. Therefore, this draft does not treat that issue.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Memo

Date: 01/18/2001
To: Jeffrey Kuesel
From: Cynthia Dombrowski
RE: LRB-1823/1dn

The following changes (in bold italics) need to be made to LRB-1823/1 dn:

✓ **SECTION 2. 16.701 (2)** of the statutes is created to read:

16.701 (2) The department may permit prospective vendors to provide product or service information through the service established under sub. (1). The department may, ***by rule, prescribe through a competitive process, determine*** fees which the department may collect for the use of the service under this subsection.

- Allows the department to determine fees through a competitive bid process, rather than by rule.

✓ **SECTION 3. 16.71 (6)** of the statutes is created to read:

16.71 (6) The department may assess any agency or municipality to which it provides services under this subchapter for the cost of the services provided to the agency or municipality. The department may also identify savings that were realized by an agency to which it provides services under this subchapter ***for any given period, determined on the basis of the costs that the agency would have incurred had the agency provided the services to itself or contracted for the services, and may assess the agency for not more than*** the amount of the savings identified by the department ***for that period.***

- Grants the department more flexibility in deciding how it will determine the amount to assess agencies. It also clarifies that agencies will not be assessed more than the amount of savings they experience.

The following additional changes need to be included in LRB-1823/1:

16.75 (6) 2 (b) If the secretary determines that it is in the best interest of this state to do so, he or she may waive the requirements of subs. (1) to (5) and may purchase supplies, materials, equipment or contractual services, other than printing and stationery, from another state, from any county, city, village, town or other governmental body in this state or from a regional or national consortium composed of nonprofits institutions that support governmental or educational services, or through a contract established by one of these entities with one or more 3rd parties. **He or she may also waive the requirements of subs. (1) to (5) and may authorize real time competitive bidding procedures utilizing electronic technology.**

- Allows the secretary to waive the requirements of subs. (1) to (5) in order to allow DSAS to conduct reverse auctions.

16.75 (1) (c) Except as provided in sub. (7), when the estimated cost is \$25,000 or less, the award may be made in accordance with simplified procedures established by the department for such transactions. **The department may also use competitive simplified procedures for any dollar amount when engaging in real time competitive bidding utilizing electronic technology.**

- Allows the department to use competitive simplified procedures when engaging in reverse auctions.

16.75 (1) (b) When the estimated cost exceeds \$25,000, due notice inviting bids shall be published as a class 2 notice, under ch. 985, **or electronically at a predetermined site on the internet as part of the state of Wisconsin portal and the bids shall not be opened until at least 7 days from the last day of publication.** The official advertisement shall give a clear description of the materials, supplies, equipment or service to be purchased, the amount of the bond, share draft, check or other draft to be submitted as surety with the bid and the date of public opening.

16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department shall publish a class 2 notice under ch. 985 inviting competitive sealed proposals **or electronically at a predetermined site on the internet as part of the state of Wisconsin portal.** The advertisement shall describe the materials, supplies, equipment or service to be purchased, the intent to solicit proposals rather than 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.

- Gives the state authorization to use electronic notification as an alternative to the current requirements for class 2 notices published under current law. This applies to all instances where class 2 notices are now required for purchasing and procurement.

16.7015 Bidders List. The department or any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list ***if authorized by the delegation*** which 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 agency for the procurement of materials, supplies, equipment or contractual services under this subchapter. Any 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 to be solicited by any agency. The department or other agency shall notify each person on its list of all requests for bids or competitive sealed proposals by the department or other agency. The department or other agency may remove any person from its list for cause.

- The department wishes to maintain a single statewide bidders list. Current law allows the department and any agency with purchasing authority to maintain a bidders list. This change will only allow another agency to keep their own bidders list if the purchasing authority delegated to them explicitly states they may do so.

Please refer questions regarding the reasons for these changes to Rob Cramer at 266-1011. Thanks.



(DNOTE)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1823/3 2

JTK:wlj:kjf

l+hmk

wanted wed 1/31

DOA:.....Dombrowski - State procurement changes

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

- Do not generate*
- 1 AN ACT ...; relating to: state procurement and electronic commerce activities,
 - 2 authorizing state distribution of vendor product or service information,
 - 3 ~~granting rule-making authority~~ and making an appropriation. STET

Analysis by the Legislative Reference Bureau
STATE GOVERNMENT
OTHER STATE GOVERNMENT

Currently, DOA provides procurement services to state agencies and some local governments. These procurement functions are financed with general purpose revenue. This bill permits DOA to assess any state agency or local government to which it provides procurement services for the cost of the services provided to the agency or local government. The bill also permits DOA to identify savings that were realized by any state agency to which it provides procurement services, ~~determined on the basis of the costs the agency would have incurred had the agency provided the services to itself or contracted for the services,~~ and to assess the agency for the amount of the savings so identified. The bill appropriates to DOA all moneys collected from these assessments, ~~to be used to finance procurement services.~~ The change potentially decreases the moneys available to agencies and local governments for other purposes. *DOA determines to have seen*

The bill does not specify any methodology for determination of these assessments.

Currently, DOA maintains a subscription service that provides current information of interest to prospective vendors concerning state procurement

PWS A

without limitation,

or establish fees through a competitive process

opportunities. This bill permits DOA to permit prospective vendors to provide product or service information through this service and also permits DOA to prescribe ~~by rule~~ fees which DOA may collect for the use of the service. Any revenue collected from the fee assessments is deposited in the state VendorNet fund, which is used to pay the costs of the subscription service.

*FW S
E*

In addition, the bill directs DOA to report to the governor and the cochairpersons of JCF concerning the status of the electronic procurement and commerce activities of DOA. The report must include an assessment of the costs and benefits of these activities for the 2002-03 fiscal year and an assessment of the success of state executive branch agencies in increasing the volume of these activities.

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

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

1 SECTION 1. 16.701 of the statutes is renumbered 16.701 (1).

2 SECTION 2. 16.701 (2) of the statutes is created to read:

3 16.701 (2) The department may permit prospective vendors to provide product
4 or service information through the service established under sub. (1). The
5 department may ~~by rule~~ prescribe fees *or establish fees through a competitive process* which the department may collect for the use
6 of the service under this subsection.

7 SECTION 3. 16.71 (6) of the statutes is created to read:

8 16.71 (6) The department may assess any agency or municipality to which it
9 provides services under this subchapter for the cost of the services provided to the
10 agency or municipality. The department may also identify *the department determines* savings that ~~were~~ realized *to*
11 by an agency to which it provides services under this subchapter ~~for any given period,~~ *have*
12 ~~determined on the basis of the costs that the agency would have incurred had the~~ *been*
13 ~~agency provided the services to itself or contracted for the services,~~ and may assess
14 the agency for *not more than* the amount of the savings identified by the department ~~for that period.~~

15 SECTION 4. 16.75 (2m) (f) of the statutes is amended to read:

*FW S
2-6*

*FW S
2-14*

1 16.75 (2m) (f) In opening examining, discussing, and negotiating proposals, the
2 department may not disclose any information that would reveal the terms of a
3 competing proposal.

4 SECTION 5. 20.505 (1) (kf) of the statutes is created to read:

5 20.505 (1) (kf) *Procurement services.* All moneys received from state agencies
6 under s. 16.71 (6) for procurement services provided by the department to the
7 agencies and from assessments for procurement savings realized by the agencies
8 receiving those services, for administration of the department's procurement
9 functions under subch. IV of ch. 16.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

10 SECTION 6. 25.61 of the statutes is amended to read:

11 **25.61 VendorNet fund.** There is created a separate nonlapsible trust fund
12 designated as the VendorNet fund consisting of all revenues accruing to the state
13 from fees assessed under s. ss. 16.701 and 16.702 (1) and from gifts, grants, and
14 bequests made for the purposes of s. ss. 16.701 and 16.702 (1) and moneys transferred
15 to the fund from other funds.

16 SECTION 9101. **Nonstatutory provisions; administration.**

17 (1) **ELECTRONIC PROCUREMENT AND COMMERCE ACTIVITIES.** The department of
18 administration shall report to the governor and the cochairpersons of the joint
19 committee on finance concerning the status of the electronic procurement and
20 commerce activities of the department. The department shall include in the report
21 an assessment of the costs and benefits of those activities for the 2002-03 fiscal year

PWS
3-3

1 and an assessment of the effectiveness of state executive branch agencies in
2 increasing the volume of those activities.

3 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/2ins
JTK.....

INSERT 2-6:

X
SECTION 1. 16.7015 of the statutes is amended to read:

16.7015 ^{DD} Bidders list. ^{DD} The department ^{check space} or any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list which Any agency to which the department delegates purchasing authority under s. 16.71 (1) may maintain a bidders list if authorized by the delegation. ^{DD} 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 agency for the procurement of materials, supplies, equipment or contractual services under this subchapter. Any 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 to be that are solicited by any agency. The department or other agency shall notify each person on its list of all requests for bids or competitive sealed proposals that are solicited by the department or other agency. The department or other agency may remove any person from its list for cause.

History: 1995 a. 351.

INSERT 2-14:

X
SECTION 2. 16.75 (1) (a) 3. of the statutes is amended to read:

16.75 (1) (a) 3. Bids may be received only in accordance with such specifications as are adopted by the department as provided in this subsection. Any or all bids may be rejected. Each Whenever sealed bids are invited, each bid, with the name of the bidder, shall be entered on a record, and each record with the successful bid indicated

shall, after the award or letting of the contract, be opened to public inspection. Where a low bid is rejected, a complete written record shall be compiled and filed, giving the reason in full for such action. Any waiver of sealed, advertised bids as provided in sub. (2m) or (6) shall be entered on a record kept by the department and open to public inspection.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197.

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

16.75 (1) (b) When the estimated cost exceeds \$25,000, the department shall invite bids to be submitted. ^{ΔΔ} The department shall either 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. ^{ΔΔ} Whenever bids are invited, due notice inviting bids shall be published as a class 2 notice, under ch. 985, and the bids or posted on the Internet at a site determined or approved by the department. ^{ΔΔ} The ~~bid opening or auction shall not be opened until occur~~ at least 7 days ~~from~~ ^{↓ ↓} after the date of the last day of publication insertion of the notice or at least 7 days after the date of posting on the Internet. The ~~official advertisement notice shall specify whether sealed bids are invited or bids will be accepted by auction, and shall give a~~ ^Δ clear description of the materials, supplies, equipment, or service contractual ^Δ services to be purchased, the amount of the any bond, share draft, check, or other draft to be submitted as surety with the bid or prior to the auction, and the date of and time that the public opening or the auction will be held.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197.

SECTION 4. 16.75 (1) (cm) of the statutes is created to read:

16.75 (1) (cm) If bids are solicited by auction, the award may be made in accordance with simplified competitive procedures established by the department for such transactions.

SECTION 5. 16.75 (2) (a) of the statutes is amended to read:

16.75 (2) (a) When the department of administration believes that it is to the best interests of the state to purchase certain patented or proprietary articles, other than printing and stationery, it may purchase said articles without the usual statutory procedure. All but all equipment shall be purchased from the lowest and best bidder as determined by the bids and a comparison of the any detailed specifications submitted with the bids, and after due advertisement as hereinbefore provided notice, whenever notice is required under this section. Where the low bid or bids are rejected, a complete written record shall be compiled and filed, giving the reasons in full for such action.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 345, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 296; 1997 a. 3; 1999 a. 2, 44, 197.

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

16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department shall ~~publish a class 2 notice under ch. ch 985 inviting~~ may invite competitive sealed proposals by publishing a class 2 notice under ch. 985 or by posting notice on the Internet at a site determined or approved by the department. The advertisement notice shall describe the materials, supplies, equipment or service contractual services to be purchased, the intent to ~~solicit~~ 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.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 343, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197.

INSERT 3-3:

^X
SECTION 7. 16.75 (6) (c) of the statutes is amended to read:

16.75 (6) (c) If 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 ¹ of subs. (1) to (5) and may purchase supplies, material, 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, the department shall first publish a class 2 ² notice under ch. 985 or post a notice on the Internet at the site determined 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.

History: 1975 c. 224; 1977 c. 418, 419; 1979 c. 34, 221, 314, 340, 355; 1979 c. 361 s. 112; 1981 c. 121 s. 20; 1983 a. 27 ss. 91, 93 to 99; 1983 a. 333 ss. 3g, 3r to 4b, 6; 1983 a. 368, 390; 1985 a. 29 ss. 122m to 124, 3200 (1); 1985 a. 180; 1987 a. 27, 119, 142, 147, 186, 399, 403; 1989 a. 31, 335, 343, 359; 1991 a. 39, 170; 1993 a. 16, 414; 1995 a. 27 ss. 368 to 382, 9116 (5); 1995 a. 225, 227, 244, 289, 432; 1997 a. 3; 1999 a. 9, 44, 197.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/lins2
JTK.....

INSERT A:

seven
¶ Currently, subject to numerous exceptions, DOA or any state agency in the executive branch to which DOA delegates purchasing authority, must make purchases by bid or competitive sealed proposal that must be preceded by at least ~~2~~ *two* notices published in the official state newspaper, the latest of which must be inserted at least ~~7~~ days prior to opening of the bids or competitive sealed proposals.

This bill permits DOA or any state agency to which DOA delegates purchasing authority to make purchases by soliciting sealed bids to be opened at a specified date and time or by solicitation of bids at an auction to be conducted electronically at a specified date and time, or by competitive sealed proposal. If bids are to be solicited at an electronic auction, the bill requires notice of the auction to be posted on an Internet site determined or authorized by DOA at least ~~7~~ days prior to the date of the auction. The bill also permits notice of any proposed purchase by DOA or an agency to which DOA delegates purchasing authority to be posted electronically on an Internet site determined or authorized by DOA at least ~~7~~ days prior to the date that bids or competitive sealed proposals are to be opened or bids are to be received by auction in lieu of the publication required under current law. *seven*

INSERT B:

¶ Currently, DOA or any state agency to which DOA delegates purchasing authority, may maintain a bidders list that includes the names and addresses of all persons who request to be notified of bids or competitive sealed proposals that are solicited by DOA or any other agency maintaining such a list. This bill permits an agency to which DOA delegates purchasing authority to maintain a bidders list only if it is specifically authorized under the delegation to do so.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/2dn

JTK *hmk*

Date

Cynthia Dombrowski: *AA*

I believe this draft comes pretty close to your intent as I now understand it. *AA* In some cases I had some difficulty ascertaining it from the submitted language and made a few judgment calls. *AA* Specifically:

1. *AA* Concerning proposed s. 16.701 (2), relating to fees for use of the subscription service, this draft permits fees to be established through a competitive process, as requested, but also retains authority for fees to be established without a competitive process in case there is no competition or DOA believes that the fee that would be established through the competitive process is too low to support the cost of the service.

2. *AA* The submitted language authorized a waiver of procurement laws to permit electronic auctions to be held and also suggested amendment of some relevant statutes to accomplish the same thing. *AA* This draft simply amends the relevant statutes to adapt them to the electronic auction alternative. Because there are few enough statutes involved, it would be inappropriate, in my view, not to go ahead and make the required adjustments to effect this intent. *AA* Once the adjustments are made, no waiver is required. *AA* As requested, the draft also, in proposed s. 16.75 (1) (cm), permits simplified competitive procedures to be used when bids are solicited by auction. *AA* I'm not sure if this paragraph serves any real need under the current draft. *AA* If not, I would remove it.

3. *AA* Regarding the electronic auctions, the draft does not include reference to "real time" and "the state of Wisconsin portal". *AA* These terms are not explained in the statutes and I did not think it was necessary to go into that explanation because I thought I could achieve your purposes without getting into it. *AA* Regarding the 7-day lead time between the last insertion and the date of bid opening, this draft retains this requirement for sealed bids and competitive sealed proposals, but for electronic auctions requires at least 7 days' lead time between the date of posting on the Internet and the date of the auction. *AA* I did this because it made sense to me to have a uniform requirement if we are going to retain the requirement at all. *AA* For the process to work advantageously to the state, it seems that there would need to be some lead time provided for prospective bidders to become informed and to calculate their bidding flexibility.

Please let me know if this draft is not in accord with your intent.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/2dn
JTK:hmh:kjf

January 31, 2001

Cynthia Dombrowski:

I believe this draft comes pretty close to your intent as I now understand it. In some cases I had some difficulty ascertaining it from the submitted language and made a few judgment calls. Specifically:

1. Concerning proposed s. 16.701 (2), relating to fees for use of the subscription service, this draft permits fees to be established through a competitive process, as requested, but also retains authority for fees to be established without a competitive process in case there is no competition or DOA believes that the fee that would be established through the competitive process is too low to support the cost of the service.
2. The submitted language authorized a waiver of procurement laws to permit electronic auctions to be held and also suggested amendment of some relevant statutes to accomplish the same thing. This draft simply amends the relevant statutes to adapt them to the electronic auction alternative. Because there are few enough statutes involved, it would be inappropriate, in my view, not to go ahead and make the required adjustments to effect this intent. Once the adjustments are made, no waiver is required. As requested, the draft also, in proposed s. 16.75 (1) (cm), permits simplified competitive procedures to be used when bids are solicited by auction. I'm not sure if this paragraph serves any real need under the current draft. If not, I would remove it.
3. Regarding the electronic auctions, the draft does not include reference to "real time" and "the state of Wisconsin portal." These terms are not explained in the statutes and I did not think it was necessary to go into that explanation because I thought I could achieve your purposes without getting into it. Regarding the 7-day lead time between the last insertion and the date of bid opening, this draft retains this requirement for sealed bids and competitive sealed proposals, but for electronic auctions requires at least 7 days' lead time between the date of posting on the Internet and the date of the auction. I did this because it made sense to me to have a uniform requirement if we are going to retain the requirement at all. For the process to work advantageously to the state, it seems that there would need to be some lead time provided for prospective bidders to become informed and to calculate their bidding flexibility.

Please let me know if this draft is not in accord with your intent.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

Kuesel, Jeffery

From: Caucutt, Dan
Sent: Friday, February 02, 2001 9:29 AM
To: Kuesel, Jeffery
Cc: Dombrowski, Cynthia
Subject: Procurement supplement language

Importance: High

Jeff: Attached is a minor amendment to the subject LRB draft. The secretary decided to provide supplemental appropriations to help defray the costs in agencies of DOA's procurement going onto a chargeback basis. Paul's approach below seems straightforward. Please advise if questions.

-----Original Message-----

From: McMahon, Paul
Sent: Friday, February 02, 2001 8:57 AM
To: Caucutt, Dan; Dombrowski, Cynthia
Cc: Moore, Kathleen
Subject: FW: Procurement supplement language
Importance: High

Haven't heard anything adverse from Rob, so need to just go with this language as addition to the procurement draft (1823/2)

-----Original Message-----

From: McMahon, Paul
Sent: Thursday, February 1, 2001 1:53 PM
To: Cramer, Robert; Moore, Kathleen
Cc: Dombrowski, Cynthia
Subject: Procurement supplement language
Importance: High



suppl_langforprocurem
ent.doc



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1823#3
JTK:wlj&hmb/efj

DOA:.....Dombrowski - State procurement changes

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Today

DO NOT GEN

- 1 AN ACT ...; relating to: state procurement and electronic commerce activities,
- 2 authorizing state distribution of vendor product or service information, and
- 3 making an appropriation. *appropriations ✓*

Analysis by the Legislative Reference Bureau
STATE GOVERNMENT
OTHER STATE GOVERNMENT

Currently, DOA provides procurement services to state agencies and some local governments. These procurement functions are financed with general purpose revenue. This bill permits DOA to assess any state agency or local government to which it provides procurement services for the cost of the services provided to the agency or local government. The bill also permits DOA to identify savings that DOA determines to have been realized by any state agency to which it provides procurement services, and to assess the agency for not more than the amount of the savings so identified. The bill does not specify any methodology for determination of these assessments. The bill appropriates to DOA all moneys collected from these assessments, without limitation, to be used to finance procurement services. The change potentially decreases the moneys available to agencies and local governments for other purposes. ✓

Currently, subject to numerous exceptions, DOA, or any state agency in the executive branch to which DOA delegates purchasing authority, must make *ins A* define "savings" and does not

purchases by bid or competitive sealed proposal that must be preceded by at least two notices published in the official state newspaper, the latest of which must be inserted at least seven days prior to opening of the bids or competitive sealed proposals.

This bill permits DOA or any state agency to which DOA delegates purchasing authority to make purchases by soliciting sealed bids to be opened at a specified date and time or by solicitation of bids at an auction to be conducted electronically at a specified date and time, or by competitive sealed proposal. If bids are to be solicited at an electronic auction, the bill requires notice of the auction to be posted on an Internet site determined or authorized by DOA at least seven days prior to the date of the auction. The bill also permits notice of any proposed purchase by DOA or an agency to which DOA delegates purchasing authority to be posted electronically on an Internet site determined or authorized by DOA at least seven days prior to the date that bids or competitive sealed proposals are to be opened or bids are to be received by auction in lieu of the publication required under current law.

Currently, DOA maintains a subscription service that provides current information of interest to prospective vendors concerning state procurement opportunities. This bill permits DOA to permit prospective vendors to provide product or service information through this service and also permits DOA to prescribe fees or establish fees through a competitive process for the use of the service. Any revenue collected from the fee assessments is deposited in the state VendorNet fund, which is used to pay the costs of the subscription service.

Currently, DOA, or any state agency to which DOA delegates purchasing authority, may maintain a bidders list that includes the names and addresses of all persons who request to be notified of bids or competitive sealed proposals that are solicited by DOA or any other agency maintaining such a list. This bill permits an agency to which DOA delegates purchasing authority to maintain a bidders list only if it is specifically authorized under the delegation to do so.

In addition, the bill directs DOA to report to the governor and the cochairpersons of JCF concerning the status of the electronic procurement and commerce activities of DOA. The report must include an assessment of the costs and benefits of these activities for the 2002-03 fiscal year and an assessment of the success of state executive branch agencies in increasing the volume of these activities.

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

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

- 1 **SECTION 1.** 16.701 of the statutes is renumbered 16.701 (1).
- 2 **SECTION 2.** 16.701 (2) of the statutes is created to read:

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

5 **SECTION 3.** 16.7015 of the statutes is amended to read:

6 **16.7015 Bidders list.** ~~The department or any agency to which the department~~
7 ~~delegates purchasing authority under s. 16.71 (1) may maintain a bidders list which,~~
8 Any agency to which the department delegates purchasing authority under s. 16.71
9 (1) may maintain a bidders list if authorized by the delegation. The bidders list shall
10 include the names and addresses of all persons who request to be notified of bids or
11 competitive sealed proposals, excluding those to be awarded under s. 16.75 (1) (c) or
12 (2m) (c), that are solicited by the department or other agency for the procurement of
13 materials, supplies, equipment or contractual services under this subchapter. Any
14 list maintained by the department may include the names and addresses of any
15 person who requests to be notified of bids or competitive sealed proposals ~~to be that~~
16 are solicited by any agency. The department or other agency shall notify each person
17 on its list of all requests for bids or competitive sealed proposals that are solicited by
18 the department or other agency. The department or other agency may remove any
19 person from its list for cause.

20 **SECTION 4.** 16.71 (6) of the statutes is created to read:

21 **16.71 (6)** The department may assess any agency or municipality to which it
22 provides services under this subchapter for the cost of the services provided to the
23 agency or municipality. The department may also identify savings that the
24 department determines to have been realized by an agency to which it provides

1 services under this subchapter and may assess the agency for not more than the
2 amount of the savings identified by the department.

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

4 16.75 (1) (a) 3. Bids may be received only in accordance with such specifications
5 as are adopted by the department as provided in this subsection. Any or all bids may
6 be rejected. ~~Each~~ Whenever sealed bids are invited, each bid, with the name of the
7 bidder, shall be entered on a record, and each record with the successful bid indicated
8 shall, after the award or letting of the contract, be opened to public inspection. Where
9 a low bid is rejected, a complete written record shall be compiled and filed, giving the
10 reason in full for such action. Any waiver of sealed, advertised bids as provided in
11 sub. (2m) or (6) shall be entered on a record kept by the department and open to public
12 inspection.

13 SECTION 6. 16.75 (1) (b) of the statutes is amended to read:

14 16.75 (1) (b) When the estimated cost exceeds \$25,000, the department shall
15 invite bids to be submitted. The department shall either solicit sealed bids to be
16 opened publicly at a specified date and time, or shall solicit bidding by auction to be
17 conducted electronically at a specified date and time. Whenever bids are invited, due
18 notice inviting bids shall be published as a class 2 notice, under ch. 985, and the bids
19 or posted on the Internet at a site determined or approved by the department. The
20 bid opening or auction shall not be opened until occur at least 7 days from after the
21 date of the last day of publication insertion of the notice or at least 7 days after the
22 date of posting on the Internet. The official advertisement notice shall specify
23 whether sealed bids are invited or bids will be accepted by auction, and shall give a
24 clear description of the materials, supplies, equipment, or service contractual
25 services to be purchased, the amount of the any bond, share draft, check, or other

1 draft to be submitted as surety with the bid or prior to the auction, and the date of
2 and time that the public opening or the auction will be held.

3 SECTION 7. 16.75 (1) (cm) of the statutes is created to read:

4 16.75 (1) (cm) If bids are solicited by auction, the award may be made in
5 accordance with simplified competitive procedures established by the department
6 for such transactions.

7 SECTION 8. 16.75 (2) (a) of the statutes is amended to read:

8 16.75 (2) (a) When the department of administration believes that it is to the
9 best interests of the state to purchase certain patented or proprietary articles, other
10 than printing and stationery, it may purchase said articles without the usual
11 statutory procedure. All but all equipment shall be purchased from the lowest and
12 best bidder as determined by the bids and a comparison of the any detailed
13 specifications submitted with the bids, and after due advertisement as hereinbefore
14 provided notice, whenever notice is required under this section. Where the low bid
15 or bids are rejected, a complete written record shall be compiled and filed, giving the
16 reasons in full for such action.

17 SECTION 9. 16.75 (2m) (b) of the statutes is amended to read:

18 16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department shall
19 publish a class 2 notice under ch. ch 985 inviting may invite competitive sealed
20 proposals by publishing a class 2 notice under ch. 985 or by posting notice on the
21 Internet at a site determined or approved by the department. The advertisement
22 notice shall describe the materials, supplies, equipment, or service contractual
23 services to be purchased, the intent to solicit make the procurement by solicitation
24 of proposals rather than by solicitation of bids, any requirement for surety and the

1 date the proposals will be opened, which shall be at least 7 days after the date of the
2 last insertion of the notice or at least 7 days after the date of posting on the Internet.

3 SECTION 10. 16.75 (6) (c) of the statutes is amended to read:

4 16.75 (6) (c) If the secretary determines that it is in the best interest of this state
5 to do so, he or she may, with the approval of the governor, waive the requirements
6 of subs. (1) to (5) and may purchase supplies, material, equipment, or contractual
7 services, other than printing and stationery, from a private source other than a
8 source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the
9 purchase is expected to exceed \$25,000, the department shall first publish a class 2
10 notice under ch. 985 or post a notice on the Internet at the site determined or
11 approved by the department under sub. (1) (b) describing the materials, supplies,
12 equipment, or contractual services to be purchased, stating the intent to make the
13 purchase from a private source without soliciting bids or competitive sealed
14 proposals and stating the date on which the contract or purchase order will be
15 awarded. The date of the award shall be at least 7 days after the date of the last
16 insertion or the date of posting on the Internet.

17 SECTION 11. 20.505 (1) (kf) of the statutes is created to read:

18 20.505 (1) (kf) *Procurement services.* All moneys received from state agencies
19 under s. 16.71 (6) for procurement services provided by the department to the
20 agencies and from assessments for procurement savings realized by the agencies
21 receiving those services, for administration of the department's procurement
22 functions under subch. IV of ch. 16.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 12. 25.61 of the statutes is amended to read:

PWS
6-22
23

1 **25.61 VendorNet fund.** There is created a separate nonlapsible trust fund
 2 designated as the VendorNet fund consisting of all revenues accruing to the state
 3 from fees assessed under ~~s.~~ ss. 16.701 and 16.702 (1) and from gifts, grants, and
 4 bequests made for the purposes of ~~s.~~ ss. 16.701 and 16.702 (1) and moneys transferred
 5 to the fund from other funds.

6 **SECTION 9101. Nonstatutory provisions; administration.**

7 (1) ELECTRONIC PROCUREMENT AND COMMERCE ACTIVITIES. The department of
 8 administration shall report to the governor and the cochairpersons of the joint
 9 committee on finance concerning the status of the electronic procurement and
 10 commerce activities of the department. The department shall include in the report
 11 an assessment of the costs and benefits of those activities for the 2002-03 fiscal year
 12 and an assessment of the effectiveness of state executive branch agencies in
 13 increasing the volume of those activities.

14 **(END)**

Create appropriations under 20.865(1) for GPR, PR and SEG supplements to agencies for procurement services. Alternatively, amend existing appropriations (see below) to encompass procurement services, with certain conditions.

Procurement services. The amounts in the schedule to supplement the general purpose revenue appropriations of state agencies for charges assessed by the department of administration for procurement services performed on behalf of the agencies under s.16.71. The Secretary may offset the amount supplemented to any agency based on savings as determined under s.16.71(6).

Example of current supplement language for Financial Services that could be modified to encompass the above, without creating yet 3 new supplement appropriations:

20.865(1)(em)

(em) *Financial and procurement services.* The amounts in the schedule to supplement the general purpose revenue appropriations of state agencies for charges assessed by the department of administration for financial services performed on behalf of the agencies under s. 16.53 (13)-or s.16.71. The Secretary may offset the amount supplemented for procurement services assessments to any agency based on savings as determined under s.16.71(6).

20.865(1)(js)

(js) *Financial and procurement services; program revenues.* From the appropriate program revenue and program revenue-service appropriations, a sum sufficient to supplement the program revenue appropriations to state agencies for charges assessed by the department of administration for financial services performed on behalf of the agencies under s. 16.53 (13)- or s.16.71. The Secretary may offset the amount supplemented for procurement services assessments to any agency based on savings as determined under s.16.71(6).

20.865(1)(ts)

(ts) *Financial and procurement services; segregated revenues.* From the appropriate segregated funds, a sum sufficient to supplement the appropriations to state agencies for charges assessed by the department of administration for financial services performed on behalf of the agencies under s. 16.53 (13)- or s.16.71. The Secretary may offset the amount supplemented for procurement services assessments to any agency based on savings as determined under s.16.71(6).

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1823/3ins
JTK.....

INSERT A:

NOT The bill also appropriates moneys from the revenue sources that finance the programs of state agencies to supplement the unbudgeted costs of procurement service charges, except charges for identified procurement savings.

INSERT 6-22:

~~SECTION 20.865~~ SECTION 20.865 (1) (em) of the statutes is amended to read:

20.865 (1) (em) *Financial and procurement services*. The amounts in the schedule to supplement the general purpose revenue appropriations of state agencies for charges assessed by the department of administration under ss. 16.53 (13) and 16.71 (6) for financial and procurement services performed on behalf of the agencies under s. 16.53 (13), except charges for procurement savings identified under s. 16.71 (6).

History: 1971 c. 125; 1971 c. 270 ss. 94, 95, 104; 1973 c. 90, 117, 151; 1973 c. 243 s. 82; 1973 c. 333; Sup. Ct. Order, 67 Wis. 2d 773 (1975); 1975 o. 39; 1975 o. 41 o. 52; 1975 c. 81, 224; 1977 c. 29, 44; 1977 c. 196 ss. 130 (8), 131; 1977 c. 203; 1977 c. 272 s. 98; 1977 c. 273, 344; 1977 c. 418 ss. 175d to 178, 929 (1); 1979 c. 32 s. 92 (5); 1979 c. 34 ss. 631b, 631d, 631f, 631h, 667 to 675; 1979 c. 48, 126, 221; 1981 c. 20, 96, 314, 317, 391; 1983 a. 27 ss. 498 to 526, 2204 (57) (b); 1983 a. 36; 1983 a. 191 s. 6; 1983 a. 192, 409; 1985 a. 29, 42, 52, 111; 1985 a. 182 s. 57; 1987 a. 27, 378; 1987 a. 403 ss. 28, 256; 1989 a. 31, 39, 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201, 227, 400, 445; 1997 a. 27, 35, 41, 237; 1999 a. 9.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

~~SECTION 20.865~~ SECTION 20.865 (1) (js) of the statutes is amended to read:

20.865 (1) (js) *Financial and procurement services; program revenues*. From the appropriate program revenue and program revenue-service appropriations, a sum sufficient to supplement the program revenue appropriations to state agencies for charges assessed by the department of administration under ss. 16.53 (13) and 16.71 (6) for financial and procurement services performed on behalf of the agencies under s. 16.53 (13), except charges for procurement savings identified under s. 16.71 (6).

History: 1971 c. 125; 1971 c. 270 ss. 94, 95, 104; 1973 c. 90, 117, 151; 1973 c. 243 s. 82; 1973 c. 333; Sup. Ct. Order, 67 Wis. 2d 773 (1975); 1975 c. 39; 1975 c. 41 s. 52; 1975 c. 81, 224; 1977 c. 29, 44; 1977 c. 196 ss. 130 (8), 131; 1977 c. 203; 1977 c. 272 s. 98; 1977 c. 273, 344; 1977 c. 418 ss. 175d to 178, 929 (1); 1979 c. 32 s. 92 (5); 1979

c. 34 ss. 631b, 631d, 631f, 631h, 667 to 675; 1979 c. 48, 126, 221; 1981 c. 20, 96, 314, 317, 391; 1983 a. 27 ss. 498 to 526, 2204 (57) (b); 1983 a. 36; 1983 a. 191 s. 6; 1983 a. 192, 409; 1985 a. 29, 42, 52, 111; 1985 a. 182 s. 57; 1987 a. 27, 378; 1987 a. 403 ss. 28, 256; 1989 a. 31, 39, 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201, 227, 400, 445; 1997 a. 27, 35, 41, 237; 1999 a. 9.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 20.865 (1) (ts) of the statutes is amended to read:

20.865 (1) (ts) *Financial and procurement services; segregated revenues.* From the appropriate segregated funds, a sum sufficient to supplement the appropriations to state agencies for charges assessed by the department of administration under ss. 16.53 (13) and 16.71 (6) for financial and procurement services performed on behalf of the agencies under s. 16.53 (13), except charges for procurement savings identified under s. 16.71 (6).

History: 1971 c. 125; 1971 c. 270 ss. 94, 95, 104; 1973 c. 90, 117, 151; 1973 c. 243 s. 82; 1973 c. 333; Sup. Ct. Order, 67 Wis. 2d 773 (1975); 1975 c. 39; 1975 c. 41 s. 52; 1975 c. 81, 224; 1977 c. 29, 44; 1977 c. 196 ss. 130 (8), 131; 1977 c. 203; 1977 c. 272 s. 98; 1977 c. 273, 344; 1977 c. 418 ss. 175d to 178, 929 (1); 1979 c. 32 s. 92 (5); 1979 c. 34 ss. 631b, 631d, 631f, 631h, 667 to 675; 1979 c. 48, 126, 221; 1981 c. 20, 96, 314, 317, 391; 1983 a. 27 ss. 498 to 526, 2204 (57) (b); 1983 a. 36; 1983 a. 191 s. 6; 1983 a. 192, 409; 1985 a. 29, 42, 52, 111; 1985 a. 182 s. 57; 1987 a. 27, 378; 1987 a. 403 ss. 28, 256; 1989 a. 31, 39, 336; 1991 a. 39; 1993 a. 16; 1995 a. 27, 201, 227, 400, 445; 1997 a. 27, 35, 41, 237; 1999 a. 9.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1823/3
JTK:wlj&hnh:rs

DOA:.....Dombrowski – State procurement changes

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

- 1 **AN ACT ...; relating to:** state procurement and electronic commerce activities,
2 authorizing state distribution of vendor product or service information, and
3 making appropriations.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, DOA provides procurement services to state agencies and some local governments. These procurement functions are financed with general purpose revenue. This bill permits DOA to assess any state agency or local government to which it provides procurement services for the cost of the services provided to the agency or local government. The bill also permits DOA to identify savings that DOA determines to have been realized by any state agency to which it provides procurement services, and to assess the agency for not more than the amount of the savings so identified. The bill does not define “savings” and does not specify any methodology for determination of these assessments. The bill appropriates to DOA all moneys collected from these assessments, without limitation, to be used to finance procurement services. The change potentially decreases the moneys available to agencies and local governments for other purposes. The bill also appropriates moneys from the revenue sources that finance the programs of state agencies to supplement the unbudgeted costs of procurement service charges, except charges for identified procurement savings.

Currently, subject to numerous exceptions, DOA, or any state agency in the executive branch to which DOA delegates purchasing authority, must make purchases by bid or competitive sealed proposal that must be preceded by at least two notices published in the official state newspaper, the latest of which must be inserted at least seven days prior to opening of the bids or competitive sealed proposals.

This bill permits DOA or any state agency to which DOA delegates purchasing authority to make purchases by soliciting sealed bids to be opened at a specified date and time or by solicitation of bids at an auction to be conducted electronically at a specified date and time, or by competitive sealed proposal. If bids are to be solicited at an electronic auction, the bill requires notice of the auction to be posted on an Internet site determined or authorized by DOA at least seven days prior to the date of the auction. The bill also permits notice of any proposed purchase by DOA or an agency to which DOA delegates purchasing authority to be posted electronically on an Internet site determined or authorized by DOA at least seven days prior to the date that bids or competitive sealed proposals are to be opened or bids are to be received by auction in lieu of the publication required under current law.

Currently, DOA maintains a subscription service that provides current information of interest to prospective vendors concerning state procurement opportunities. This bill permits DOA to permit prospective vendors to provide product or service information through this service and also permits DOA to prescribe fees or establish fees through a competitive process for the use of the service. Any revenue collected from the fee assessments is deposited in the state VendorNet fund, which is used to pay the costs of the subscription service.

Currently, DOA, or any state agency to which DOA delegates purchasing authority, may maintain a bidders list that includes the names and addresses of all persons who request to be notified of bids or competitive sealed proposals that are solicited by DOA or any other agency maintaining such a list. This bill permits an agency to which DOA delegates purchasing authority to maintain a bidders list only if it is specifically authorized under the delegation to do so.

In addition, the bill directs DOA to report to the governor and the cochairpersons of JCF concerning the status of the electronic procurement and commerce activities of DOA. The report must include an assessment of the costs and benefits of these activities for the 2002-03 fiscal year and an assessment of the success of state executive branch agencies in increasing the volume of these activities.

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

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

1 SECTION 1. 16.701 of the statutes is renumbered 16.701 (1).

2 SECTION 2. 16.701 (2) of the statutes is created to read:

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

5 **SECTION 3.** 16.7015 of the statutes is amended to read:

6 **16.7015 Bidders list.** The department ~~or any agency to which the department~~
7 ~~delegates purchasing authority under s. 16.71 (1) may maintain a bidders list which.~~
8 Any agency to which the department delegates purchasing authority under s. 16.71
9 (1) may maintain a bidders list if authorized by the delegation. The bidders list shall
10 include the names and addresses of all persons who request to be notified of bids or
11 competitive sealed proposals, excluding those to be awarded under s. 16.75 (1) (c) or
12 (2m) (c), that are solicited by the department or other agency for the procurement of
13 materials, supplies, equipment or contractual services under this subchapter. Any
14 list maintained by the department may include the names and addresses of any
15 person who requests to be notified of bids or competitive sealed proposals ~~to be~~ that
16 are solicited by any agency. The department or other agency shall notify each person
17 on its list of all ~~requests for bids or competitive sealed proposals~~ that are solicited by
18 the department or other agency. The department or other agency may remove any
19 person from its list for cause.

20 **SECTION 4.** 16.71 (6) of the statutes is created to read:

21 16.71 (6) The department may assess any agency or municipality to which it
22 provides services under this subchapter for the cost of the services provided to the
23 agency or municipality. The department may also identify savings that the
24 department determines to have been realized by an agency to which it provides

1 services under this subchapter and may assess the agency for not more than the
2 amount of the savings identified by the department.

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

4 16.75 (1) (a) 3. Bids may be received only in accordance with such specifications
5 as are adopted by the department as provided in this subsection. Any or all bids may
6 be rejected. ~~Each~~ Whenever sealed bids are invited, each bid, with the name of the
7 bidder, shall be entered on a record, and each record with the successful bid indicated
8 shall, after the award or letting of the contract, be opened to public inspection. Where
9 a low bid is rejected, a complete written record shall be compiled and filed, giving the
10 reason in full for such action. Any waiver of sealed, advertised bids as provided in
11 sub. (2m) or (6) shall be entered on a record kept by the department and open to public
12 inspection.

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

14 16.75 (1) (b) When the estimated cost exceeds \$25,000, the department shall
15 invite bids to be submitted. The department shall either solicit sealed bids to be
16 opened publicly at a specified date and time, or shall solicit bidding by auction to be
17 conducted electronically at a specified date and time. Whenever bids are invited, due
18 notice inviting bids shall be published as a class 2 notice, under ch. 985, and the bids
19 or posted on the Internet at a site determined or approved by the department. The
20 bid opening or auction shall not be opened until occur at least 7 days from after the
21 date of the last day of publication insertion of the notice or at least 7 days after the
22 date of posting on the Internet. The official advertisement notice shall specify
23 whether sealed bids are invited or bids will be accepted by auction, and shall give a
24 clear description of the materials, supplies, equipment, or service contractual
25 services to be purchased, the amount of the any bond, share draft, check, or other

1 draft to be submitted as surety with the bid or prior to the auction, and the date of
2 and time that the public opening or the auction will be held.

3 **SECTION 7.** 16.75 (1) (cm) of the statutes is created to read:

4 16.75 (1) (cm) If bids are solicited by auction, the award may be made in
5 accordance with simplified competitive procedures established by the department
6 for such transactions.

7 **SECTION 8.** 16.75 (2) (a) of the statutes is amended to read:

8 16.75 (2) (a) When the department of administration believes that it is to the
9 best interests of the state to purchase certain patented or proprietary articles, other
10 than printing and stationery, it may purchase said articles without the usual
11 statutory procedure. ~~All~~ but all equipment shall be purchased from the lowest and
12 best bidder as determined by the bids and a comparison of the any detailed
13 specifications submitted with the bids, and after due advertisement ~~as hereinbefore~~
14 ~~provided~~ notice, whenever notice is required under this section. Where the low bid
15 or bids are rejected, a complete written record shall be compiled and filed, giving the
16 reasons in full for such action.

17 **SECTION 9.** 16.75 (2m) (b) of the statutes is amended to read:

18 16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department ~~shall~~
19 ~~publish a class 2 notice under ch. ch 985 inviting~~ may invite competitive sealed
20 proposals by publishing a class 2 notice under ch. 985 or by posting notice on the
21 Internet at a site determined or approved by the department. The advertisement
22 notice shall describe the materials, supplies, equipment, or ~~service contractual~~
23 services to be purchased, the intent to ~~solicit~~ make the procurement by solicitation
24 of proposals rather than by solicitation of bids, any requirement for surety and the

1 date the proposals will be opened, which shall be at least 7 days after the date of the
2 last insertion of the notice or at least 7 days after the date of posting on the Internet.

3 **SECTION 10.** 16.75 (6) (c) of the statutes is amended to read:

4 16.75 (6) (c) If the secretary determines that it is in the best interest of this state
5 to do so, he or she may, with the approval of the governor, waive the requirements
6 of subs. (1) to (5) and may purchase supplies, material, equipment, or contractual
7 services, other than printing and stationery, from a private source other than a
8 source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the
9 purchase is expected to exceed \$25,000, the department shall first publish a class 2
10 notice under ch. 985 or post a notice on the Internet at the site determined or
11 approved by the department under sub. (1) (b) describing the materials, supplies,
12 equipment, or contractual services to be purchased, stating the intent to make the
13 purchase from a private source without soliciting bids or competitive sealed
14 proposals and stating the date on which the contract or purchase order will be
15 awarded. The date of the award shall be at least 7 days after the date of the last
16 insertion or the date of posting on the Internet.

17 **SECTION 11.** 20.505 (1) (kf) of the statutes is created to read:

18 20.505 (1) (kf) *Procurement services.* All moneys received from state agencies
19 under s. 16.71 (6) for procurement services provided by the department to the
20 agencies and from assessments for procurement savings realized by the agencies
21 receiving those services, for administration of the department's procurement
22 functions under subch. IV of ch. 16.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

23 **SECTION 12.** 20.865 (1) (em) of the statutes is amended to read:

1 20.865 (1) (em) *Financial and procurement services*. The amounts in the
2 schedule to supplement the general purpose revenue appropriations of state
3 agencies for charges assessed by the department of administration under ss. 16.53
4 (13) and 16.71 (6) for financial and procurement services performed on behalf of the
5 agencies under s. 16.53 (13), except charges for procurement savings identified
6 under s. 16.71 (6).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

7 **SECTION 13.** 20.865 (1) (js) of the statutes is amended to read:

8 20.865 (1) (js) *Financial and procurement services; program revenues*. From
9 the appropriate program revenue and program revenue-service appropriations, a
10 sum sufficient to supplement the program revenue appropriations to state agencies
11 for charges assessed by the department of administration under ss. 16.53 (13) and
12 16.71 (6) for financial and procurement services performed on behalf of the agencies
13 under s. 16.53 (13), except charges for procurement savings identified under s. 16.71
14 (6).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

15 **SECTION 14.** 20.865 (1) (ts) of the statutes is amended to read:

16 20.865 (1) (ts) *Financial and procurement services; segregated revenues*. From
17 the appropriate segregated funds, a sum sufficient to supplement the appropriations
18 to state agencies for charges assessed by the department of administration under ss.
19 16.53 (13) and 16.71 (6) for financial and procurement services performed on behalf
20 of the agencies under s. 16.53 (13), except charges for procurement savings identified
21 under s. 16.71 (6).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

