AN ACT to amend 16.75 (1) (a) 1. and 16.75 (6) (bm) and (e); and to create 16.705 (1r) of the statutes; relating to: state procurement of contractual services.

Analysis by the Legislative Reference Bureau

Currently, state executive branch agencies may contract for services that can be performed more economically or efficiently by contract than by state employees. With numerous exceptions, any services must be obtained from the lowest responsible bidder or the person submitting the most advantageous competitive sealed proposal. Services may be obtained from domestic or foreign sources.

With certain exceptions, this bill requires all contractual services purchased by state executive branch agencies to be performed within the United States. This requirement does not apply if the contractual services cannot be obtained within the United States.

For further information see the state 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:

SECTION 1. 16.705 (1r) of the statutes is created to read:

16.705 (1r) Notwithstanding s. 16.75 (2m) and (3m), and except as provided in s. 16.75 (2) (b) and (7), the department and its agents may purchase contractual
services only if those services are performed within the United States. This requirement does not apply if the contractual services are not available to be performed within the United States.

SECTION 2. 16.75 (1) (a) 1. of the statutes, as affected by 2005 Wisconsin Act 141, is amended to read:

16.75 (1) (a) 1. All orders awarded or contracts made by the department for all materials, supplies, equipment, and contractual services to be provided to any agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t), (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754, 50.05 (7) (f), 153.05 (2m) (a), 287.15 (7), and 301.265, shall be awarded to the lowest responsible bidder, taking into consideration life cycle cost estimates under sub. (1m), when appropriate, the location of the agency, the quantities of the articles to be supplied, their conformity with the specifications, and the purposes for which they are required and the date of delivery.

SECTION 3. 16.75 (6) (bm) and (e) of the statutes are amended to read:

16.75 (6) (bm) If the secretary determines that it is in the best interest of this state to do so, he or she may waive any requirement under subs. (1) to (5) and ss. 16.705 (1), and (2) to (8) and 16.72 (2) (e) and (f) and (5) with respect to any contract entered into by the department of workforce development under s. 49.143, if the department of workforce development presents the secretary with a process for the procurement of contracts under s. 49.143 and the secretary approves the process.

(e) The governor or his or her designee may waive any requirement of this subchapter, except s. 16.705 (1r), if the governor or his or her designee finds that there exists an emergency which threatens the public health, safety or welfare and the waiver is necessary to meet the emergency. The governor or his or her designee
shall require the award of each contract under this paragraph to be made with such
competition as is practicable under the circumstances. The governor or his or her
designee shall file with the department a statement of facts constituting the
emergency for each waiver issued under this paragraph, and a statement of the basis
for selection of each contractor under the emergency procedure. This paragraph does
not apply to the requirement specified in sub. (7).

SECTION 4. Initial applicability.

(1) This act first applies with respect to bids or competitive sealed proposals for
contractual services solicited on the effective date of this subsection.