

2009 ASSEMBLY BILL 2

January 16, 2009 – Introduced by Representatives POCAN, ZIGMUNT, BARCA, BENEDICT, BERCEAU, BERNARD SCHABER, BLACK, CLARK, DANOU, FIELDS, GRIGSBY, HRAYCHUCK, HUBLER, JORGENSEN, KRUSICK, MASON, MOLEPSKE, NELSON, PARISI, PASCH, POPE-ROBERTS, RADCLIFFE, RICHARDS, ROYS, SEIDEL, SHERIDAN, SHILLING, SINICKI, SMITH, VAN AKKEREN, A. WILLIAMS and YOUNG, cosponsored by Senators WIRCH, COGGS, HANSEN, LASSA, LEHMAN, MILLER, ROBSON and SULLIVAN. Referred to Committee on Jobs, the Economy and Small Business.

1 **AN ACT to amend** 16.75 (1) (a) 1. and 16.75 (6) (bm) and (e); and **to create** 16.705
2 (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 or are paid for with federal moneys or if the contractual services are purchased by the University of Wisconsin System from gifts, grants, or endowment trust fund income.

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:

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

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

5 (a) Contractual services that are not available to be performed within the
6 United States.

7 (b) Contractual services if the payment for any part of the contractual services
8 is made from federal moneys.

9 (c) The renewal, modification, or extension of any contract in effect on the
10 effective date of this paragraph [LRB inserts date].

11 (d) Contractual services purchased by the Board of Regents of the University
12 of Wisconsin System with moneys appropriated under s. 20.285 (1) (j), (ja), (jm), (u),
13 or (w) or (5) (j).

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

15 16.75 **(1)** (a) 1. All orders awarded or contracts made by the department for all
16 materials, supplies, equipment, and contractual services to be provided to any
17 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
18 (6), (7), (8), (9), (10e), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754,
19 16.964 (8), 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest
20 responsible bidder, taking into consideration life cycle cost estimates under sub.
21 (1m), when appropriate, the location of the agency, the quantities of the articles to
22 be supplied, their conformity with the specifications, and the purposes for which they
23 are required and the date of delivery.

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

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1 16.75 (6) (bm) If the secretary determines that it is in the best interest of this
2 state to do so, he or she may waive any requirement under subs. (1) to (5) and ss.
3 16.705 (1) and (2) to (8) and 16.72 (2) (e) and (f) and (5) with respect to any contract
4 entered into by the department of children and families under s. 49.143, if the
5 department of children and families presents the secretary with a process for the
6 procurement of contracts under s. 49.143 and the secretary approves the process.

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

SECTION 4. Initial applicability.

17 **SECTION 4. Initial applicability.**
18 (1) This act first applies with respect to bids or competitive sealed proposals for
19 contractual services solicited on the effective date of this subsection.

20 (END)