

2013 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB750)

Received: 2/18/2014 Received By: gmalaise
Wanted: 2/19/2014 4:00:00 PM Same as LRB:
For: Andy Jorgensen (608) 266-3790 By/Representing: Tom Kelly
May Contact: Drafter: gmalaise
Subject: State Govt - procurement Addl. Drafters:
Extra Copies: CMH

Submit via email: YES
Requester's email: Rep.Jorgensen@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Payment of excessive compensation by state contractors

Instructions:

Prohibit a state contractor from paying any of its officers or employees more than \$1M per year during the term of the contract

Drafting History:

Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. It tracks the drafting process for two versions of the document.

FE Sent For:

<END>

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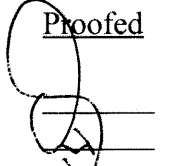
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/?	gmalaise	/1 sac 02/19/2014	/1 sac 02/19/2014				

FE Sent For:

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State of Wisconsin  
2013 - 2014 LEGISLATURE

CV 2/18  
Wanted 2/19  
Flour 2/20



LRBa1884/1  
GMM.../...  
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**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 750**

- 1           At the locations indicated, amend the substitute amendment as follows:
- 2           **1.** Page 1, line 7: after “funds” insert “, prohibiting a state contractor from
- 3           paying excessive compensation to any officer or employee during the term of the
- 4           contract, and granting rule-making authority”.
- 5           **2.** Page 2, line 1: delete that line and substitute:
- 6           <sup>x</sup>  
“SECTION 1d. 16.766 of the statutes is created to read:
- 7           **16.766 Contractors; excessive compensation to officers and employees**
- 8           **prohibited.** (1) A contracting agency or authority shall include in all contracts
- 9           executed by the agency or authority a provision obligating the contractor not to pay
- 10          any of the contractor’s officers or employees compensation, including wages, salary,
- 11          commissions, and bonuses, in excess of \$1,000,000 per year during the term of the
- 12          contract.

1           (2) Subsection (1) does not apply to contracts to meet special requirements or  
2 emergencies, if approved by the department.

3           (3) A contracting agency or authority shall take appropriate action to revise the  
4 standard government contract forms to achieve compliance with this section.

5           (4) The head of each contracting agency and the board of directors of each  
6 contracting authority shall be primarily responsible for obtaining compliance by any  
7 contractor with the contractual provision required under sub. (1) according to  
8 procedures recommended by the department. The department shall make  
9 recommendations to the contracting agencies and the boards of directors of the  
10 contracting authorities for improving and making more effective that contractual  
11 provision. The department shall promulgate such rules as may be necessary for the  
12 performance of its functions under this section.

13           (5) The department may receive complaints of alleged violations of the  
14 contractual provision required under sub. (1). The department shall investigate and  
15 determine whether a violation of such a provision has occurred. The department may  
16 delegate this authority to the contracting agency or authority for processing in  
17 accordance with the department's procedures.

18           (6) When a violation of a contractual provision required under sub. (1) has been  
19 determined by the department, the contracting agency or authority shall do all of the  
20 following:

21           (a) Immediately inform the violating party of the violation.

22           (b) Direct the violating party to take action necessary to halt the violation.

23           (c) Direct the violating party to take immediate steps to prevent further  
24 violations of the contractual provision and to report its corrective action to the  
25 contracting agency or authority.

do any of the following:  
(a) Permit

(b) Terminate

1 (7) If further violations of a contractual provision required under sub. (1) are  
 2 committed during the term of the contract, the contracting agency or authority may  
 3 ~~permit~~ the violating party to complete the contract, after complying with this section,  
 4 but after that the contracting agency or authority ~~shall~~ <sup>must</sup> request the department to  
 5 place the name of the party on the ineligible list for state contracts, ~~or the contracting~~  
 6 ~~agency or authority may terminate~~ <sup>of the contract</sup> the contract without liability for the uncompleted  
 7 portion ~~or~~ any materials or services purchased or paid for by the contracting party  
 8 for use in ~~completing~~ <sup>performing</sup> the contract. ~~completing the uncompleted portion of~~ <sup>ok by GMM</sup>

9 (8) The names of parties who have had contracts terminated under this section  
 10 shall be placed on an ineligible list for state contracts maintained by the department.  
 11 No state contract may be approved and let to any party on such list of ineligible  
 12 contractors. The department may remove the name of any party from the ineligible  
 13 list of contractors if the department determines that the contractor's compensation  
 14 practices comply with the requirement under sub. (1) and provide adequate  
 15 safeguards for its observance.

16 (9) A violation of this section by a prime contractor shall not impute to a  
 17 subcontractor nor shall a violation of this section by a subcontractor impute to a  
 18 contractor.

19 <sup>x</sup>  
**SECTION 1f.** 16.82 (6) of the statutes is amended to read:

20 16.82 (6) May provide any services to a local professional baseball park district  
 21 created under subch. III of ch. 229, for compensation to be agreed upon between the  
 22 department and the district, if the district has entered into a lease agreement with  
 23 the department under sub. (7), except that the department shall not act as a general  
 24 contractor for any construction work undertaken by the district. No order or contract

1 to provide any such services is subject to s. 16.705, 16.75 (1) to (5) and (8) to (10),  
2 16.752, 16.754 ~~or~~, 16.765, or 16.766.

*As created by 2013 Wisconsin Act 20*

3 **History:** 1971 c. 125; 1975 c. 39 s. 732 (1); 1977 c. 29; 1979 c. ~~4~~, 221; 1981 c. 350; 1983 a. 333; 1985 a. 29; 1989 a. 31; 1991 a. 39, 316; 1995 a. 47, 56; 1999 a. 83.

**SECTION 1h. 16.855 (9m) (b) 2. e. of the statutes is amended to read:**

4 16.855 (9m) (b) 2. e. The bidder is not on an ineligible list that the department  
5 maintains under s. 16.705 (9) ~~or~~, 16.765 (9), or 16.766 (8) or on a list that another  
6 agency maintains for persons who violated construction-related statutes or  
7 administrative rules.

**History:** 1971 c. 125; 1973 c. 47; 1975 c. 39, 199, 390; 1977 c. 418; 1979 c. 34; 1981 c. 20; 1983 a. 27 ss. 104g to 105, 2202 (1); 1983 a. 390 s. 6; 1985 a. 29; 1985 a. 332 s. 251 (1); 1987 a. 27, 292; 1989 a. 31; 1991 a. 39, 316; 1995 ~~27~~ ss. 400p, 9126 (19); 1995 a. 227; 1997 a. 27, 306; 1999 a. 150 s. 672; 1999 a. 197; 2001 a. 103; 2003 a. 33, 157; 2005 a. 141, 391; 2007 a. 20 s. 9121 (6) (a); 2009 a. 299; 2011 a. 32; 2011 a. 260 s. 80; 2013 a. 20.

8 **SECTION 1j. 23.41 (5) of the statutes is amended to read:**

9 23.41 (5) Each contract for construction work entered into by the department  
10 under this section shall be awarded on the basis of bids or competitive sealed  
11 proposals in accordance with procedures established by the department. Each  
12 contract for construction work shall be awarded to the lowest responsible bidder or  
13 the person submitting the most advantageous competitive sealed proposal as  
14 determined by the department. If the bid of the lowest responsible bidder or the  
15 proposal of the person submitting the most advantageous competitive sealed  
16 proposal is determined by the department to be in excess of the estimated reasonable  
17 value of the work or not in the public interest, the department may reject all bids or  
18 competitive sealed proposals. Every such contract is exempted from ss. 16.70 to  
19 16.75, 16.755, 16.76, 16.767 to 16.77, 16.78 to 16.82, 16.855, 16.87, and 16.89, but ss.  
20 16.528, 16.753, 16.754, ~~and~~ 16.765, ~~and~~ 16.766 apply to the contract. Every such  
21 contract involving an expenditure of more than \$60,000 is not valid until the contract  
22 is approved by the governor.

**History:** 1989 a. 31, 359; 1991 a. 39; 1995 a. 227; 1997 ~~3~~, 27; 2001 a. 16; 2005 a. 410; 2009 a. 299.

23 **SECTION 1m. 66.0903 (1r) of the statutes is created to read:”.**

1           **3.** Page 3, line 16: after that line insert:

2           “**SECTION 2t.** 655.27<sup>v</sup> (2) of the statutes is amended to read:

3           655.27 (2) FUND ADMINISTRATION AND OPERATION. Management of the fund shall  
4           be vested with the board of governors. The commissioner shall either provide staff  
5           services necessary for the operation of the fund or, with the approval of the board of  
6           governors, contract for all or part of these services. Such a contract is subject to ss.  
7           16.753 ~~and~~, 16.765, and 16.766, but is otherwise exempt from subch. IV of ch. 16. The  
8           commissioner shall adopt rules governing the procedures for creating and  
9           implementing these contracts before entering into the contracts. At least annually,  
10          the contractor shall report to the commissioner and to the board of governors  
11          regarding all expenses incurred and subcontracting arrangements. If the board of  
12          governors approves, the contractor may hire legal counsel as needed to provide staff  
13          services. The cost of contracting for staff services shall be funded from the  
14          appropriation under s. 20.145 (2) (u). The fund shall pay to the commissioner  
15          amounts charged for organizational support services, which shall be credited to the  
16          appropriation account under s. 20.145 (1) (g) 2.”.

History: 1975 c. 37, 79, 199; 1977 c. 29, 131; 1979 c. 34, 194; 1981 c. 20; 1983 a. 27, 158; 1985 a. 340; 1987 a. 27, 186, 247, 399; 1989 a. 102, 187, 332; 1991 a. 214, 315;  
1993 a. 473; 1995 a. 10; 2001 a. 65; 2003 a. 111; 2005 a. 36, 410; 2007 a. 20.

17

(END)