



2005 ASSEMBLY BILL 186

March 10, 2005 - Introduced by Representatives POCAN, BLACK, BOYLE, CULLEN, FREESE, GRIGSBY, GRONEMUS, LEHMAN, MOLEPSKE, POPE-ROBERTS, RICHARDS, SHERIDAN, SHILLING, SINICKI, TURNER, VAN AKKEREN, ZEPNICK and BERCEAU, cosponsored by Senators ROBSON, HANSEN, CARPENTER, ERPENBACH, LASSA, MILLER, TAYLOR and WIRCH. Referred to Committee on Budget Review.

1 **AN ACT to amend** 16.705 (1), 16.75 (1) (a) 1. and 16.75 (6) (bm) and (e); and **to**
2 **create** 16.705 (1r) of the statutes; **relating to:** state procurement of
3 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:

4 **SECTION 1.** 16.705 (1) of the statutes is amended to read:

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1 16.705 (1) The Except as provided in subs. (1m) and (1r), the department or its
2 agents may contract for services which can be performed more economically or
3 efficiently by such contract.

4 **SECTION 2.** 16.705 (1r) of the statutes is created to read:

5 **16.705 (1r)** (a) Notwithstanding s. 16.75 (2m) and (3m), and except as provided
6 in par. (b) and s. 16.75 (2) (b) and (7), the department and its agents may purchase
7 contractual services only if those services are performed within the United States.

8 (b) Paragraph (a) does not apply to contractual services that are not available
9 to be performed within the United States.

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

11 16.75 (1) (a) 1. All orders awarded or contracts made by the department for all
12 materials, supplies, equipment, and contractual services to be provided to any
13 agency, except as otherwise provided in par. (c) and subs. (2), (2g), (2m), (3m), (3t),
14 (6), (7), (8), (9), and (10m) and ss. 16.705 (1r), 16.73 (4) (a), 16.751, 16.754, 16.964 (8),
15 50.05 (7) (f), 153.05 (2m) (a), and 287.15 (7), shall be awarded to the lowest
16 responsible bidder, taking into consideration life cycle cost estimates under sub.
17 (1m), when appropriate, the location of the agency, the quantities of the articles to
18 be supplied, their conformity with the specifications, and the purposes for which they
19 are required and the date of delivery.

20 **SECTION 4.** 16.75 (6) (bm) and (e) of the statutes are amended to read:

21 16.75 (6) (bm) If the secretary determines that it is in the best interest of this
22 state to do so, he or she may waive any requirement under subs. (1) to (5) and ss.
23 16.705 (1), (1m), and (2) to (8) and 16.72 (2) (e) and (f) and (5) with respect to any
24 contract entered into by the department of workforce development under s. 49.143,

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1 if the department of workforce development presents the secretary with a process for
2 the procurement of contracts under s. 49.143 and the secretary approves the process.

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

13 **SECTION 5. Initial applicability.**

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

16 (END)