



State Procurement Manual

Compliance Effective Date: September 16, 2019

100-Series: Introduction & Procurement Fundamentals

This section of the Manual provides an introduction to key procurement concepts, definitions and thresholds. Fundamental information related to the core principles of public procurement in Wisconsin, ethical guidelines and more can be found in the 100-series.

PRO-101 Procurement Definitions and Thresholds

PRO-102 Delegation

PRO-103 Procurement Systems and Bidders Lists

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PRO-105 Procurement Record Retention and Access

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SCOPE: The purpose of this section is to establish definitions for terms and thresholds that are used throughout the State Procurement Manual.

THRESHOLDS: Competitive bidding, waivers and other procurement activities are determined by spending thresholds set by applicable law. References to these procurement activities in various sections of the State Procurement Manual tie to the following thresholds:

Method/Procedure/Topic	Threshold
Signage Bid Threshold	Over \$3,500
Best judgment	\$5,000 or less
Purchase Order Required	\$5,000+, unless a lower threshold is set at agency discretion
Simplified bidding	Over \$5,000 up to \$50,000 over full contract duration
Simplified Request for Proposal	Over \$5,000 up to \$50,000 over full contract duration
Official sealed bid or Request for Bid (RFB)	Over \$50,000 over full contract duration
Competitive negotiation or Request for Proposal (RFP)	Over \$50,000 over full contract duration
Emergency Procurement Threshold	Over \$25,000
Sole source waiver	Over \$25,000 over full contract duration
General waiver	Over \$25,000 over up to 12 months
Vehicles	All dollar amounts, pre-approval requisition process required
Legal services	All dollar amounts, pre-approval requisition process required



Legal Authority
Various; citations as identified herein.

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Collective purchase	Over \$50,000 over full contract duration
Cost benefit analysis	Over \$50,000 per year
Continued appropriateness	Over \$50,000 per year
Protest and appeals process	Over \$50,000 over full contract duration; contractual services only
Major expenditure for Contract Sunshine posting	\$10,000 or more over biennium
Applicability for Prohibited Boycott	\$100,000 or more
Contract compliance/affirmative action plan	Over \$50,000
Telecommunications purchase	Over \$10,000
Large or High Risk Information Technology purchase	Over \$1,000,000
WTOGPA Threshold (Goods) per USA-Sub Central Government Entities Annex 2	\$492,000
WTOGPA Threshold (Services) per USA-Sub Central Government Entities Annex 2	\$492,000
WTOGPA Threshold (Construction) per USA-Sub Central Government Entities Annex 2	\$6,932,000

DEFINITIONS: Certain terms used in state procurement have official meanings, many of which are derived from applicable law. Where a definition is provided for in law, such law is cited:

Term and Definition	Citation (where applicable)
Affiliate means a person, as defined in s. 77.51 (10), that controls, is controlled by, or is under common control with another person, as defined in s. 77.51 (10).	16.70(1b)



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Affirmative action plan (AAP) is a written document committing the contractor to a program designed to achieve a balanced work force within a reasonable period of time. It contains, at a minimum, a policy statement, work force analysis, program goals, internal monitoring system, and dissemination of the plan. An acceptable plan is one which satisfies s. 16.765, Wis. Stats., and Adm 50, Wisconsin Administrative Code.	16.765 ; Adm 50.05
Agency means an office, department, agency, institution of higher education, association, society, or other body in state government created or authorized to be created by the constitution or any law, which is entitled to expend moneys appropriated by law, including the legislature and the courts, but not including an authority and is seeking or has received “delegation” from the “State Bureau of Procurement”.	16.70 (1e)
Agency purchasing card program administrator means the individual(s) appointed by the agency head to manage, coordinate and control purchasing cards within the agency.	
Agreement between state agencies means the acquisition of property or services by one state agency from another state agency.	
Agreement with a labor organization means any agreement with a labor organization, including a collective bargaining agreement, a project labor agreement, or a community workforce agreement.	16.75(1p)(a)1
Alternate bid means a response that complies with all required specifications and instructions of a solicitation but includes pricing for substitute products or equivalent services to that specified by the procuring agency. An alternate bid may also be labeled as a multiple bid, where a bidder submits an exact match as “bid 1” and an alternative as “bid 2”. A bid submitted with an intentional, substantive variation to a required specification or instruction may be deemed non-responsive.	
“Anything of value” means any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees, honorariums and	19.42(1)



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expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.	
Appreciable contribution means adding value to a commodity by reforming raw materials or assembling components for a commodity contract.	16.752(10)
Auction fee means a charge by the State Surplus Property Program for disposing of a vehicle or related equipment at a vehicle auction.	
Auction sale means sale by bidding at a public auction, including on-line auctions, conducted by the State Surplus Property Program.	
Authority means a body created under subch. II of ch. 114 or under ch. 231, 232, 233, 234, 237, or 279.	16.70(2)
Balanced work force means an equitable representation of persons with disabilities, minorities and women available for jobs at any particular level from the relevant labor market.	Adm 50.03(1)
Bid means a price quotation specifically given to a prospective purchaser by a prospective seller; a bid is an offer to sell.	Adm 6.01(1)
Bid file means a file maintained by a procuring agency that contains: the original bid response with an indication of the date and time received, original copy of request for bid, original bidders list, an abstract of bids received, a listing of any late bids, the names of successful bidders, justification for any lower bids rejected, a statement of the application of life-cycle cost formula, Wisconsin bidder preference, minority bidder preference, sheltered workshop preference, and "buy American" preference, where pertinent.	Adm 6.01(2)
Bidder means a person that is submitting a bid or a competitive sealed proposal or that is seeking an award under this section in a procedure established under sub. (1)(c) .	16.75(1p)(a)(2) and Adm 6.01(3)



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Bidder means a person or firm which submits a competitive bid in response to requests for bids.	
Bidders list is a listing of vendors who are registered on the Wisconsin eSupplier Portal to receive notification of requests for bids/proposals in their designated commodity/service area(s). Bidders list means a list maintained by a procuring agency, setting out the names and addresses of suppliers of various goods from whom bids, proposals, and price quotations can be solicited.	Adm 6.01(4)
Board (state use) means the state use board.	16.752(1)(a)
Bureau means the State of Wisconsin, Department of Administration, Division of Enterprise Operations, State Bureau of Procurement.	
Cardholder means a specific state employee who has been issued a purchasing card by an agency.	
Certificate of insurance means a document issued by an insurer which evidences that an insurance policy is in place with the vendor providing information such as: insurer, insurance agency, insured, type(s) of insurance, policy number(s), effective date(s), expiration date(s), limits, certificate holder, cancellation procedure, and the name of the representative who authorized the policy.	
Certified work center means a work center that has met the requirements needed to participate in the State Use Program under s. 16.752, Wis. Stats.	
Commodity or standard service procurement (as it relates to insurance coverage) means a contract, procurement or purchase which is not a high-risk service procurement as defined in Appendix A, Insurance Coverage Limits Requirements.	
Competitive bidding means the offer of prices by individuals or firms competing to supply specified goods.	Adm 6.01(5)



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Competitive negotiation means soliciting proposals when an award cannot be made strictly on specifications or price and several individuals or firms are qualified to furnish the product.	Adm 6.01(6)
Components mean a simple part of a larger entity or a relatively complex entity which is regarded reasonably as a part of a larger entity.	
Computer Services means any services in which a computer is utilized other than for personal computing purposes.	16.70(2m)
Confidential information is information which is intended by the owner not to be available to anyone other than the owner, or persons having access thereto with the owner's consent, and is so stated by the owner, which accords or may accord the owner a competitive advantage over other persons.	
Construction work means all labor and materials used in the framing or assembling of component parts in the erection, installation, enlargement, alteration, repair, moving, conversion, razing, demolition or removal of any appliance, device, equipment, building, structure or facility. Construction work projects are projects having project numbers assigned by the Division of Facilities Development (DFD).	
Consumer price index means the average of the consumer price index over each 12-month period, all items, U.S. city average, as determined by the bureau of labor statistics of the U.S. department of labor.	16.75(11)(a)
Continued appropriateness means a periodic review of, and justification for, continuing a contractual services agreement involving an estimated annual expenditure of more than the cost benefit analysis threshold. This review must be done before renewal of any contract, but may be done more often.	16.705(2)(a) and Adm 10.037
Continued appropriateness of contracting means the department or its designated agents shall review periodically, and before any renewal, the continued appropriateness of contracting under each contractual service	



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agreement involving an estimated annual expenditure of more than the cost benefit analysis threshold.	
Contract compliance program (CCP) means the organization within the State of Wisconsin responsible for overall administration of Wisconsin's Contract Compliance Law (s. 16.765, Wis. Stats.). The CCP is a part of the Wisconsin Department of Administration.	
Contracting agency means the state agency that executes a purchase order for contractual services.	Adm 10.03(2)
Contractor means any individual or any legal entity, including its officers and directors, that submits bids or proposals for, or is awarded or may reasonably be expected to submit bids or proposals for or be awarded a department contract. Contractor includes any subcontractor of a contractor that conducts business with the department as an agent or representative of a contractor and any individual or legal entity that conducts business with the department as an agent or representative of a contractor.	Adm 24.02(5)
Contractual Services includes all services, including technical and professional services, materials to be furnished by a service provider in connection with services, and any limited trades work involving less than the official sealed bid or RFP threshold to be done for or furnished to the state or any agency. Contractual services includes all services, materials to be furnished by a service provider in connection with services, and any limited trades work to be done for or furnished to the state or any office thereof.	16.70(3)
Control means to own, directly or indirectly, more than 10 percent of the interest in or voting securities of a business.	16.70(3e)
Cost analysis (as it relates to work centers) means a work center's information documenting its anticipated costs to produce a single unit of a product or a month of service.	



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<p>Cost-benefit analysis means a comprehensive study to identify and compare the total cost, quality, technical expertise, and timeliness of a service performed by state employees and resources with the total cost, quality, technical expertise, and timeliness of the same service obtained by means of a contract for contractual services.</p> <p>Cost-benefit analysis means a uniform analysis that shall be completed by a contracting agency or its designated agents of each proposed contractual service procurement involving an estimated expenditure of more than the cost benefit analysis threshold.</p>	<p>16.70(3g) and Adm 10.035(1)</p>
<p>Covered classes refers to the fifteen classes covered by non-discrimination requirements of s. 16.756(1), Wis. Stats. and 2019 Wisconsin Executive Order 1 which include age, race, religion, color, disability, sex, physical condition, developmental disability, military or veteran status, sexual orientation, gender identity or expression, national origin, marital or familial status, genetic information or political affiliation.</p>	
<p>Criteria (as it relates to delegation) is a standard by which a judgment can be formed to determine whether delegation is warranted for a state agency.</p>	
<p>Delegation is the authority for an agency to purchase up to a specified dollar level without obtaining prior approval for each individual transaction from the State Bureau of Procurement.</p>	
<p>Developmental disability means a disability as prescribed by s. 51.01(5)(a), Wis. Stats.</p>	<p>51.01(5)(a)</p>
<p>Direct labor means all labor or work involved in producing or supplying materials, supplies or equipment or performing contractual services including preparation, processing and packing, but excluding supervision, administration, inspection and shipping.</p>	<p>16.752(1)(c)</p>
<p>Disabled veteran-owned business means a business certified by the department of administration under s. 16.283 (3).</p>	<p>16.75(3m)(a)(1) Wis. Stats.</p>



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Discounts for early payment means a discount for a payment made within a specific time period.	Adm 6.01(8)
Educational technology means technology used in the education or training of any person or in the administration of an elementary or secondary school and related telecommunications services.	16.70(3m) as provided for in 16.99(3)
Employee means anyone who has received any wages for work performed by the contractor.	
Energy consuming equipment means any equipment that is designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function, and that consumes energy.	16.75(10e)(a)
Executive branch agency means an agency in the executive branch but does not include the building commission.	16.70(4)
Fair and reasonable price is a price that is fair to both contracting parties, consideration the agreed upon conditions, promised quality, and timeliness of contract performance. Procuring agencies can use several methods to determine fair and reasonable prices, such as competitive bidding, price and cost analysis, and benchmarking to other contracts.	
Fair market price means the price for a commodity/service that compares favorably to the price available from other industry sources.	
Fair market value is the price for an item upon which the purchaser and vendor agree in an open market when both are fully acquainted with market conditions.	
Federal employer identification number (FEIN) is the number assigned by the IRS to employers for tax reporting purposes or the Social Security Number (SSN) if the contractor is a sole proprietorship with no FEIN.	
Foreign entity means an organization which is headquartered in a country other than the United States.	
Full delegation transfers procurement authority to a special designated agent in another state agency. This delegation authorizes the agency to conduct bids for commodities in any dollar	



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amount if not provided on a mandatory statewide contract and approve sole source procurements meeting statutory requirements through specified dollar amounts. Full delegation does not include authority to: conduct any request for proposal, conduct any bid for services over the competitive bidding threshold, and approve any sole source waiver request over the specified threshold. Full delegation to a special designated agent must be acquired from the State Bureau of Procurement.

Good faith dispute means a contention by an agency that goods delivered or services rendered were of a lesser quantity or quality than ordered or specified by contract, were faulty or were installed improperly; or any other reason giving cause for the withholding of payment by the agency until the dispute is settled.

[66.0135\(1\)\(b\)](#)

Goods is a general term used to refer to various commodities, materials, supplies, and equipment.

Governmental body means a local agency, board, commission, committee, council, department, or public body created by constitution, statute, ordinance, rule, or order.

Grant means the transfer of things of value to a recipient to carry out a public purpose of support or stimulation authorized by law.

“Has a record of such impairment” means has a history of, or has been classified as having, a mental or physical impairment which substantially limits one or more life activity.

[111.32\(8\)](#)

Improper invoices means an invoice presented for payment not submitted with adequate or correct information for processing. Examples include incorrect price, cash discount not shown, incorrect reference to purchase order number and submittal to the incorrect address for processing.

[16.53\(2\)](#)

Individual with a disability means a person who: has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

[111.32\(8\)](#)



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Information technology means the electronic processing, storage and transmission of information including data processing and telecommunications. Information technology portfolio refers to IT systems, applications, infrastructure and information resources and human resources devoted to developing and maintaining information technology systems.	16.70(4m) as provided for in 16.97(6)
Intergovernmental procurements are those purchases of supplies, materials, equipment, or contractual services other than printing and stationery, from the federal government.	16.75(6)(a)
“Is regarded as having such an impairment” means an individual has a physical or mental impairment that does not substantially limit major life activities, but that is treated by a recipient as constituting such a limitation, has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others towards such impairment, or has none of the impairments defined in this section but is treated by a recipient as having such an impairment.	111.32(8)
Job category means a broad-based group of employees with comparable job responsibilities who are located at comparable levels of responsibility within an organization. Job categories are located on the U.S. Equal Employment Opportunity Commission Web site: http://www.eeoc.gov/employers/eo1survey/jobclassguide.cfm .	
Judicial branch agency means an agency created under ch. 757 or 758 or an agency created by order of the supreme court.	16.70(5)
Labor market means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence.	
Labor organization means any employee organization in which employees participate and which exists primarily for the purpose of engaging in collective bargaining with any employer concerning grievances, labor disputes, wages, hours or conditions of employment, or the promotion and	5.02(8m)



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advancement of the professional or occupational standards and the welfare of its members and families and any organization established for the same purposes composed of individuals or affiliates of any such employee organization.	
Late fee means charge by the State Surplus Property Program for late submittal of the Inter-Agency Used Vehicle Sale Report.	
Legislative service agency means an agency created under ch. 13 which is authorized, or the head of which is authorized, to appoint subordinate staff, except the building commission.	16.70(6)
Limited trades work means maintenance work consisting of the repair or replacement of existing equipment or building components with equipment or components of the same kind, if the work is not dependent upon the design services of an architect or engineer, and does not alter or affect the performance of any building system, structure, exterior walls, roof or exits, or the fire protection or sanitation of the building. Limited trades work includes decorative and surface material changes within a building and minor preventive maintenance to ancillary facilities such as exterior lighting, drives, parking lots, sidewalks and fences.	16.70(7)
Lowest responsible bidder means the person or firm submitting the competitive bid with the lowest price that meets the specifications of the solicitation.	Adm 6.01(9)
Maintenance work means work on equipment and facilities routinely accomplished to preclude breakdown or deterioration.	
Major expenditure means an expenditure of \$10,000 or more or, if a contract or order is for continuing purchases, an expenditure of \$10,000 or more in the current fiscal biennium.	16.753(1)



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Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, standing, seeing, hearing, eating, sleeping, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working.	
Manufactured means mined, produced, manufactured, fabricated or assembled.	16.754(1)(a)
“Manufactured in the United States” means that materials are manufactured in whole or in substantial part within the United States, or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States.	16.754(1)(b)
Master lease means an agreement entered into by the department on behalf of one or more agencies to obtain property or services under which the department makes or agrees to make periodic payments.	16.76(4)(a)
Materials (as it relates to sustainability in procurement) mean natural, recycled or synthetic products used in the manufacturing of a commodity.	
Materials (generally) means any goods, supplies, equipment or any other tangible products or materials.	16.754(1)(c)
Materials as used in the definition of contractual services means products, supplies, equipment, or reports incidental to the required performance under the contract but not a specific end product	
MCC means the merchant category code assigned by the banking industry. The state has three standard specifications: regular, travel and foreign emergency major medical expense.	
Minorities is as defined in Adm 50.03(7)	Adm 50.03(7)
Minority business means a business certified by the department of administration under s. 16.287 (2).	16.75(3m)(a)(4) Wis. Stats.
Moveable equipment means furnishings, machinery, tools and other property which is to be used in conjunction with programs in the new building or facility. It is not incorporated into the	



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<p>construction. Although it may be fastened to the structure and may be connected to utility service, it is readily separable. It is generally funded with construction project funds, but is not part of the construction contract.</p>	
<p>Municipality means a county, city, village, town, school district, board of school directors, sewer district, drainage district, vocational, technical, and adult education district, or any other public or quasi-public corporation, officer, board or other body having the authority to award public contracts.</p>	<p>16.70(8); Adm 6.01(10)</p>
<p>Nonprocurement transaction means a grant, agreement between state agencies, and payment made pursuant to statute.</p>	
<p>Nonprofit/other government sale means sale to a nonprofit or other governmental unit within Wisconsin.</p>	
<p>Non-standard specification (see the contents of PRO-B-6) may be generic or performance specifications, or both, prepared to describe in detail the article which the state desires to purchase either by its physical properties or by its programmatic utility. When appropriate for such nonstandard items or services, trade names may be used to identify what the state requires, but wherever possible 2 or more trade names shall be designated and the trade name of any Wisconsin producer, distributor or supplier shall appear first.</p>	<p>16.72(2)(b), Wis. Stats.</p>
<p>Officer includes the person or persons at the head of each agency, by whatever title the person or persons may be elsewhere designated.</p>	<p>16.70(9)</p>
<p>Original receipt means the customer copy of the purchasing card receipt signed by the cardholder at the time of purchase. In the case of phone, fax or Internet orders, “original receipt” means the copy of the receipt sent by the supplying vendor to the purchaser with the goods purchased. This “original receipt” should be annotated by the cardholder to indicate that the order was placed by phone, fax or Internet.</p>	
<p>Partial delegation means the transfer of procurement authority with specific dollar or commodity and/or service limits.</p>	



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Payment made pursuant to statute means only one provider is statutorily permissible and the rate of reimbursement is set by statute.	
Permanent personal property means any and all property which in the opinion of the secretary will have a life of more than 2 years.	16.70(10)
Personal computing means utilizing a computer that is located at the work station where the input or output of data is conducted.	16.70(10m)
Piggybacking is when an agency uses an existing open contract established by another agency. Piggybacks will not exist beyond the final contract date of the originating agency contract. The agency piggybacking will contact the originating agency to determine whether renewal options have been exercised prior to attempting to renew its contract with the vendor.	
Position means a single approval by the governor for the operation of a motor vehicle.	
Procurement means the process of obtaining goods, including all activities from the planning process, preparation, and processing of a requisition, through receipt and approval of the final invoice for payment.	Adm 6.01(11)
Procurement means the acquisition of goods or services by purchasing, renting, leasing, contracting or bartering, but not by seizure, condemnation, donation or requisition.	
Procurement plan means the form that is submitted by a state agency to the State Bureau of Procurement to obtain purchasing authority for specific transactions.	
Procuring agency means the state agency that conducts the purchasing transaction.	Adm 6.01(12)
Prohibited boycott means a refusal to deal with or a termination of business relations with Israel or a person doing business in Israel or in a territory under Israeli jurisdiction, if the refusal or termination is intended to penalize, inflict economic harm on, or limit commercial relations with Israel	20.931(1)(b)



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or the territory. Prohibited boycott does not include an action taken for ordinary business purposes.	
Proposer means a person or firm submitting a proposal in response to a request for proposals (RFP).	Adm 10.03(8)
Proprietary means owned by a private individual or corporation under a copyright, trademark, or patent.	Adm 6.01(13)
Purchase means a transaction whose principal purpose is to acquire goods or services for the direct benefit/use of the state and is subject to Chapter 16, Subchapter IV. Purchase means acquire by purchase or lease.	16.754(1)(d)
Purchase order means a state purchase order form used to offer to contract with a vendor.	Adm 10.03(9)
Purchasing card means a charge card issued to an authorized state employee through the Department of Administration, State Bureau of Procurement's Purchasing Card Contract.	
Reasonable accommodation means changes and modifications that could be made in the structure of a job or employment and training program which are done to make possible the employment of a person with a disability, unless such changes would impose undue hardship on the operation of the contractor's business. Such a change is made to employ or to continue employment of a person with a disability. Note: reasonable accommodation may include making facilities used by the employees, including hallways, restrooms, cafeterias and lounges, accessible to persons with disabilities. It also may include job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters or other similar actions.	Adm 50.03(9)
Record means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics which has been created or is being kept by an agency. Record does not include	



Legal Authority
Various; citations as identified herein.

Agencies Affected: All, unless otherwise noted

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drafts, notes, preliminary computations, and like materials prepared for the originator's personal use or prepared in the name of the person for whom the originator is working.

Record of purchases means the medium used by the cardholder to record and verify purchases against the statement. Agencies may determine the mechanism that works best for them. The Purchasing Card User Manual shows a sample Purchase Log Form.

Recovered material is a product which is recovered from solid waste in a form identical to the original form for a use that is the same as or similar to the original use. The recycling of old glass containers into new glass containers is an example of using recovered material.

[16.70\(11\)](#)

Recyclable material is material that is suitable for recycling.

[16.15\(1\)\(c\)](#)

Recyclable material is material in waste for which there exists a commercially demonstrated processing or manufacturing technology which uses the material as a raw material. Glass containers and plastic milk jugs used as examples under recovered materials and recycled materials are also types of recycled materials.

Recycled material is a product which is manufactured from solid waste or paper mill sludge. Plastic lumber that is manufactured from old milk jugs is an example of a recycled material.

[16.70\(12\)](#)

Recycled or recovered content means the proportion of an item, by weight or other measure, which is recycled material or recovered material.

[16.70\(13\)](#)

Request for bids means all documents used for soliciting bids.

[Adm 6.01\(14\)](#)

Request for proposals (RFP) means all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

[Adm 10.03\(10\)](#)

Request for purchasing approval/authority (RPA) means the form and all attached materials that are submitted by a state agency to the State Bureau of Procurement to initiate a procurement process beyond the agency's delegated authority.

[Adm 10.03\(11\)](#)



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Requester means any person who requests inspection or copies of a record.

Reverse auction is an on-line procurement method used to obtain bids for commodities and services. In a reverse auction, something is purchased from the lowest bidder (which is the "reverse" of a normal auction, wherein something is sold to the highest bidder). A reverse auction is typically conducted via the Internet whereby bidders anonymously bid against each other for a lot (an item or group of items) for which an agency has a requirement. Bidding takes place at a specified date and time and continues for a specified amount of time or until no more bids are received.

Risk means the potential for property loss, for physical harm, or legal liability.

Salvage sale means sale for scrap value by bids.

Second tier provider is a supplier that invoices the prime contractors for commodities/services provided under the prime contractor's state contract. A subcontractor is an example of a second tier provider.

Secretary means the Secretary of the Department of Administration.

[Adm 10.03\(12\)](#)

Severely handicapped individual means an individual who has a physical, mental or emotional disability which is a substantial handicap to employment and prevents the individual from engaging in normal competitive employment.

[16.752\(1\)\(d\)](#)

Sexual orientation is as defined in s. 111.32(13m).

[111.32\(13m\)](#)

Sign is interpreted to mean all interior or exterior items used to display a name, direction, warning or announcement posted for public display. This includes but is not limited to "Adopt-a"; ATV/Snowmobile; Banners; Plaques; Crime Prevention; Exterior; Fire Prevention; Highway and Traffic; Interior; Interpretive; NIMS; No Smoking; Park and Recreation; Street Name Signs.

All hardware, components or accessories related to the value of the sign (e.g. posts, mounting rings, etc.) as it is installed if 1) those components would otherwise be purchased with the sign, 2) from the same supplier pool, and 3) on the same order or bid.



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Small business means a business which has had less than \$1.5 million in gross annual sales in the most recent calendar or fiscal year.	16.75(4)(c)
Solicitation means the process of notifying prospective bidders that the state wishes to receive bids or proposals on goods. The process may consist of public advertising, the mailing of requests for bids, posting of notices, or telephone calls to prospective bidders, verbal notice, or any other means that makes the state's intentions known to potential suppliers.	Adm 6.01(15)
Special designated agent means the person within an agency who receives the primary procurement delegation for that agency.	
Specification means a description of what the procuring agency requires and, consequently, what a bidder must offer to be considered for an award. A specification may be a description of the physical or functional characteristics, or of the nature of a supply. It may include a description of any requirement for inspecting, testing, or preparing a supply item for delivery, the necessary performance criteria, and a description of the procedures to be followed when submitting and evaluating bids.	Adm 6.01(16)
Standard specification means a specification, either chemical or physical or both, prepared to describe in detail the article which the state desires to purchase, and trade names shall not be used. On the formulation, adoption and modification of any standard specifications, the department of administration shall also seek and be accorded without cost, the assistance, advice and cooperation of other agencies and officers. Each specification adopted for any commodity shall, insofar as possible, satisfy the requirements of any and all agencies which use it in common.	16.72(2)(a) , Wis. Stats.
State means the State of Wisconsin, or any agency thereof, a contractor acting pursuant to a contract with the state and any person acting on behalf of the state or any agent thereof.	16.754(1)(e)



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State agency means any department, board, commission, independent agency, or any other separate entity established by statute or by constitution, in the state government, including the legislature.	Adm 10.03(13)
Statement means the detailed statement of charges that is sent to the cardholder by the purchasing card vendor.	
Statewide contract means written directives issued by the State Bureau of Procurement that authorize agency purchasing activities and establish the procedures to be followed in purchasing from that contract.	
Stipulation means a condition established by the State Bureau of Procurement for a specific procurement with which the agency must comply.	
Subcontract/joint venture costs mean costs paid to any person or company that assumes by secondary contract.	
Subcontractor means a person or company that assumes by secondary contract some or all of the obligations of an original contractor.	Adm 50.03(10)
Sub-delegation means the act of a special designated agent assigning procurement authority within the construct of this policy, to a position(s) within his or her procurement oversight.	
Substantially equal means a tied bid or equal proposal score.	
Supervisor means whoever is responsible for approving a purchasing cardholder's (P-Card holder's) time and leave reporting.	
Telecommunications refers to all services and facilities capable of transmitting, switching or receiving information in any form, by wire, radio or other electronic means. Voice and data communications services and voice and data telecommunications equipment and services include, but are not limited to, voice processing, video conferencing, wireless paging, wireless/cell phone technology, TDM or VoIP PBX (Private Branch Exchange) and key systems, hosted telephony services, ACD (Automatic Call	16.70(15) as provided for in 16.97(10)



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Distribution), non-statewide contracted local and long distance services, ISDN (Integrated Services Digital Network), IVR (Interactive Voice Response), and LAN (Local Area Network) interconnection (WAN, i.e., Wide Area Network) services.	
Total number of employees means 1) for purposes of determining whether the contractor needs to submit an Affirmative Action Plan, the number of employees on the contractor's payroll as of the date that the contractor receives a State of Wisconsin contract; and 2) for purposes of submitting a work force analysis, the number of employees on the contractor's payroll as of any date within one year of receiving its State of Wisconsin contract.	
Trade Secret means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply: 1. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. 2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.	134.90(1)(c). Wis. Stats.
Underrepresentation means the contractor's work force does not approximate the percentage of women, minorities or persons with disabilities available for jobs in any particular job category from the relevant labor market in which the contractor recruits.	
Vehicle means airplane, truck, automobile and motorcycle.	
Vehicle means any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, rails, water, or in the air. Vehicle does not include a personal delivery device, as defined in s. 340.01 (43fg)	939.22(44)



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Vehicle lease means a contract between an agency and a vendor to provide a vehicle for a period of 30 consecutive days or more.

Vehicle rental means a rental of 29 days or less that is covered by the state's current contract for leasing or renting vehicles.

Veteran-owned business means a small business, as defined in par. (c), that is certified by the department of veterans affairs as being at least 51 percent owned by one or more veterans, as defined in s. 45.01 (12). [16.75\(4\)\(d\)](#)

Voting securities means securities that confer upon the holder the right to vote for the election of members of the board of directors or similar governing body of a business, or are convertible into, or entitle the holder to receive upon their exercise, securities that confer such a right to vote. [16.70\(16\)](#)

Wisconsin business means any producer, distributor, supplier, or retailer that has all of the following: one or more employees located in Wisconsin; a physical business presence such as a store, factory, warehouse, or office in Wisconsin; "nexus" in Wisconsin as defined by Wis. Adm. Rule Tax 2.82, and is required to file a tax form; and, when required, is licensed to do business in Wisconsin.

Work center means a charitable organization or nonprofit institution which is licensed under s. 104.07 and incorporated in this state or a unit of county government which is licensed under s. 104.07, and which is operated for the purpose of carrying out a program of rehabilitation for severely handicapped individuals and for providing the individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature, and which is engaged in the production of materials, supplies or equipment or the performance of contractual services in connection with which not less than 75 percent of the total hours of direct labor are performed by severely handicapped individuals. [16.752\(1\)\(e\)](#)

Work force means the composite number of employees without regard to job categories of the contractor. The contractor may designate its work force, for the purposes of satisfying the



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Wisconsin Contract Compliance Law, either as that part of the entity (division, company, subsidiary) primarily responsible for satisfying the State of Wisconsin contract or as the work force of the entire entity, with the concurrence of the CCP.



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SCOPE: The scope of this policy is to establish authority to perform and delegate the authority to perform procurement activities, as well as the criteria used by the State Bureau of Procurement (Bureau) to grant state agency delegation.

POLICY: Under the statutes, the Bureau establishes rules and procedures that govern the procurement process. Under these rules and procedures, the Bureau purchases, and may delegate to special designated agents, the authority to purchase, all necessary materials, supplies, equipment, permanent property and miscellaneous capital, contractual services and other expenses of a consumable nature for all state offices.

Delegation to special designated agents is done in writing and such delegation specifies dollar, transaction and commodity parameters within which the agent is authorized to act.

Actions performed under delegation must conform to the rules and procedures that govern the procurement process. Actions performed under delegation are documented to leave a full audit trail.

Delegation may be increased, reduced, or withdrawn when deemed appropriate by the Bureau. A transition period will be developed to give all current delegated agencies an opportunity to meet the criteria.

For definitions and thresholds related to delegation, see PRO-101, Procurement Definitions and Thresholds.

- PROCEDURE:**
- I. Special Designated Agent Responsibilities
 - A. A special designated agent with full delegation authority may sub-delegate the authority to conduct procurements in accordance with Bureau procedures and policies to appropriate positions within the agency of his or her procurement oversight. A sub-delegation agreement is not



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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required for those staff directly reporting to the special designated agent. Such sub-delegation may be full or partial.

- B. To sub-delegate, the special designated agent must establish a process for sub-delegation that meets or exceeds the state’s delegation requirements applicable to the sub-delegation. The sub-delegated position may further sub-delegate procurement authority if the following are observed:
 - 1. Sub-delegation is done in writing.
 - 2. Written sub-delegation contains specifically defined procurement limitations and responsibilities.
 - 3. All written sub-delegation agreements must be kept on file.
 - 4. Sub-delegation is subject to Bureau audit.
- C. The special designated agent remains responsible for all agency wide activities regardless of any sub-delegation agreement.

II. Delegation Criteria

A combination of the following criteria will be the basis of the Bureau’s determination of delegation authority to an agency:

- A. The organizational structure of the agency supports the receipt of delegated authority and all related responsibilities thereof.



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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- B. The agency’s internal policies and procedures adhere to state procurement standards and support the level of delegation assigned.
- C. The special designated agent has the knowledge, experience and performance requirements needed to support the level of delegation assigned.
- D. The agency’s purchasing/procurement staff has the knowledge, experience and performance requirements needed to support the level of delegation assigned.
- E. The agency’s training program supports the level of delegation assigned.
- F. The agency’s internal procurement management review, audit and compliance monitoring activities support the level of delegation assigned.
- G. The agency’s procurement history, complexity of procurements, and history of protests and appeals support the level of delegation assigned.
- H. The agency’s baseline procurement data gathered from applicable procurement system(s), state purchasing card transactions, and agency contract data support the level of delegation assigned.

III. Obtaining Delegation

- A. The agency head submits a cover letter and application materials to the Bureau. The application will address the functional requirements identified in section II and in the Delegation Approval Criteria and Baseline Review.



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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- B. The Bureau will acknowledge receipt of the application in writing and provide the agency with an estimated review response date.
- C. After review of the application materials and baseline procurement data, the Bureau will issue a letter which:
 - 1. Approves the application and issues full delegation
 - 2. Approves the application and issues partial delegation that authorizes the agency to solicit commodities or services with certain conditions as delineated in the delegation letter
 - 3. Rejects the application. The Bureau will issue a written statement that explains why the application was rejected and explains what the agency needs to improve or change to be considered for delegation.
- D. The agency may appeal the rejection of their application. The agency will submit its appeal in writing to the Bureau stating specific reasons why the application should be reconsidered.
- E. The Bureau will acknowledge receipt of the appeal in writing and provide the agency with an estimated review response date.

IV. Process for Terminating/Reducing Delegation

- A. The following situations could cause the Bureau to review an agency for reduction or termination of delegation:



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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1. A management review with significant findings that call into question the agency’s internal controls for purchasing.
2. Significant purchasing/procurement staff turnover.
3. A pattern of bad procurements or procurement practices indicating a problem.
4. Failure to comply with delegation agreement terms.

B. The Bureau may take a series of actions, including:

1. Placing an agency on probation for a defined period.
2. Reducing the delegation.
3. Terminating delegation.

C. Restoration of delegation will require the agency to resubmit an application for delegation. The application must demonstrate that remedies have been implemented to address the identified deficiencies.

V. Changes Impacting Delegation

A. The agency must notify the Bureau within twenty (20) working days, when any of the following occurs:

1. The individual with delegated authority leaves the position. Agencies will be provided a window of time to recruit staff to meet the required criteria if a special designated agent leaves the position.



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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2. The agency experiences significant organizational or staff changes impacting the procurement function.

3. The agency makes significant revisions to the position descriptions or responsibilities of the delegee and/or purchasing/procurement staff.

B. The Bureau will review the situation and if necessary:

1. Direct the agency to resubmit the application for delegation as outlined in III. above, or;

2. Temporarily modify agency delegation and direct the agency to resubmit the application when staffing changes are completed.

VI. Application Scoring

A. A point system will be used to measure the agency's application materials against the evaluation criteria contained in Delegation Approval Criteria and Baseline Review.

B. An agency must score at least 60 out of 100 possible points to be considered for delegation.

REFERENCE: DOA-3833: Purchasing Personnel Inventory
Delegation Approval Criteria and Baseline Review



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

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SCOPE: The purpose of this policy is to establish the responsibility and official procedure for use of state procurement systems and maintenance of bidders lists.

POLICY: The Department of Administration, State Bureau of Procurement, supports two primary procurement systems for conducting the competitive process and disseminating procurement information.

STAR Enterprise Resource Planning (ERP) System

State agencies that use STAR to conduct purchasing and procurement functions, including posting and receiving competitive solicitations, do so through the State of Wisconsin eSupplier Portal.

VendorNet

State agencies that do not use the eSupplier Portal, such as the University of Wisconsin System and its campuses, use VendorNet to post competitive solicitations. VendorNet is also used by all agencies to post awarded contract information.

Municipalities may also use VendorNet for posting solicitations with the proper registration credentials.

Bidders List

Vendors must register on the eSupplier Portal to be placed on the state bidders list. When an agency posts requests for bids/proposals using the eSupplier Portal or VendorNet, only those vendors with a valid e-mail address, registered on the eSupplier Portal, will be notified automatically of such solicitations in their designated commodity/service area(s).



Legal Authority

Wis. Stats. ss. 16.004; 16.701; 16.7015; 16.75(1)(a); 16.75(4)(a);
16.753; 19.48(11)
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PROCEDURE:

- I. Solicitation Posting and Management
 - A. Delegated agencies that use STAR will post request for bids/proposals (RFB/RFP) documents on the eSupplier Portal.
 - B. Consolidated Agency Purchasing Services (CAPS) agencies will work through their Department of Administration CAPS staff to post RFBs/RFPs on the eSupplier Portal.
 - C. Agencies that do not use STAR will use VendorNet for posting RFB/RFPs.
 - D. Agencies are encouraged to also post simplified bids on their designated system (STAR or VendorNet).
 - E. For RFBs/RFPs, agencies will post award, amendment and/or cancellation information on the eSupplier Portal or VendorNet as applicable.
 - F. Access to post or edit solicitations on either the eSupplier Portal or VendorNet must be authorized by the agency special designated agent, CAPS or directly by the State Bureau of Procurement Director as applicable.
- II. Bidders List Maintenance
 - A. The official bidders list for an agency solicitation will be generated from the information in the eSupplier Portal at the time of the solicitation posting.
 - B. If a vendor is not registered with a valid email address in the eSupplier Portal and makes a request of the agency to be notified of the solicitation, agencies will provide the vendor with instructions on where to obtain information about the



Legal Authority

Wis. Stats. ss. 16.004; 16.701; 16.7015; 16.75(1)(a); 16.75(4)(a); 16.753; 19.48(11)
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solicitation. The agency will retain a record of this activity in the procurement file.

III. Bidders List Removal

- A. If the agency deems a bidder to be non-responsible, the agency will submit rationale for removal from the bidders list to the Bureau. The Bureau will determine if the bidder should be excluded from bidding, and whether it should only be for that agency specifically or on a statewide basis.
- B. The following are reasons for removal from the bidders list:
 - 1. Repeated failure to bid responsively;
 - 2. Failure to meet contract specifications after an award has been made;
 - 3. Failure to render satisfactory performance on a contract that has been awarded; and
 - 4. Furnishing false or erroneous information to obtain listing on a bidders list.
- C. The following are procedures that govern removal:
 - 1. The process of removal requires the agency to investigate reasons and evidence that support removal. That information will be forwarded to the Bureau with a request to remove the vendor.
 - 2. When removal is based on vendor contract performance, the agency informs the bidder in writing about the performance issues.



Legal Authority

Wis. Stats. ss. 16.004; 16.701; 16.7015; 16.75(1)(a); 16.75(4)(a); 16.753; 19.48(11)
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3. The Bureau will keep complete records of all decision items to document the reasons and basis for the decision.
4. A bidder who has been removed may request reinstatement. If the bidder sufficiently demonstrates that the reason for removal has been eliminated, the bidder may be reinstated at the sole judgment of the Bureau. Reinstatement may be probationary for a specific period.

IV. Notification of Subscription Service

- A. All agencies will include in each RFB/RFP over the official bidding threshold the following language (or similar) regarding bidder registration:

“Wisconsin eSupplier Portal Registration: Only Bidders registered with the State of Wisconsin’s eSupplier Portal (the State’s electronic purchasing information system) will receive future official notice for this service/commodity. The State of Wisconsin purchasing information and Bidder notification service is available to all businesses and organizations that want to sell to the State. Anyone may access the Wisconsin eSupplier Portal on the internet at <https://eSupplier.wi.gov> to register as a Bidder with the State of Wisconsin. Bidders may use the same internet address for inclusion on the Bidders list for goods and Services that the organization wants to sell to the State. A subscription with notification guarantees the organization will receive an email message each time a State Agency, including any campus of the University of Wisconsin System, posts a request for bid in their designated Commodity/service area(s) with an estimated value over \$50,000. Organizations without internet access may receive paper copies by request to the agency. Increasingly, State agencies also are using Wisconsin eSupplier Portal or



Legal Authority

Wis. Stats. ss. 16.004; 16.701; 16.7015; 16.75(1)(a); 16.75(4)(a); 16.753; 19.48(11)
 Wis. Adm. Code Chapter 7.05; 9
 Agencies Affected: All, unless otherwise noted

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-103

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-C-17, 35 (Various Dates)
Title		Page
PROCUREMENT SYSTEMS AND BIDDERS LISTS		5 of 5

VendorNet to post simplified bids valued at \$50,000 or less. Bidders also may receive email notices of these simplified bid opportunities. Bidders may also visit VendorNet at <https://VendorNet.wi.gov> to get information on State purchasing practices and policies, goods and Services that the State buys, and tips on selling to the State.”

B. Agencies will refer vendors who are unfamiliar with the registration process to the DOA Procurement Support staff at doawispro@wisconsin.gov.

V. Contract Posting

A. Agencies will post and maintain current contracts for on-going needs on VendorNet. Contracts for one-time purchases need not be placed on VendorNet. Contracts where the contractor(s) has agreed to extend its terms and conditions for cooperative purchasing will be posted on VendorNet.



Legal Authority

Wis. Stats. ss. 16.004; 16.701; 16.7015; 16.75(1)(a); 16.75(4)(a); 16.753; 19.48(11)
 Wis. Adm. Code Chapter 7.05; 9
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 Sara Redford, Director
 State Bureau of Procurement



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Department of Administration, State Bureau of Procurement

Number
PRO-104

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-B-3 (10-16-02)
Title		Page
NIGP CODES AND STANDARD CODING STRUCTURES		1 of 1

SCOPE: The purpose of this policy is to establish the standard commodity code structure for state agencies in conducting procurement and purchasing activities.

POLICY: The National Institute of Governmental Purchasing (NIGP) commodity code structure is a set of numbers used to identify commodities and services procured by the state.

The "living code" is a current listing of codes that can be updated by various states as necessary to meet the needs of the individual states, currently maintained by Periscope Holdings, Inc.

The "master file" is a listing of codes that is located on VendorNet and maintained by the State Bureau of Procurement (Bureau).

The NIGP commodity code structure, from the master file, will be used by all state agencies at the five-digit level as the state standard.

- PROCEDURE:**
- I. Utilization and Maintenance
 - A. The code structure is used to register vendors on the state bidders list, maintain bidder files, and identify items on purchase orders to assist in creating purchasing reports.
 - B. The Bureau will maintain and update the master file. A text or tab delimited file is available to access and download.
 - C. The agency may request an update to the master file if a code does not exist that the agency needs by contacting the Bureau at doawispro@wisconsin.gov.
 - D. The Bureau will make requested updates as a Wisconsin-specific code(s) unless Periscope Holdings, Inc. edits the code in the NIGP structure.



Legal Authority

Wis. Stats. s. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director

State Bureau of Procurement



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Number
PRO-105

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	2/18/2020	PRO-D-23, G-4 (Various Dates)
Title	Page	
PROCUREMENT RECORD RETENTION AND ACCESS	1 of 3	

SCOPE: The purpose of this policy is to establish recordkeeping and retention standards for various procurement events, and to prescribe official procedure for making such records publicly available.

POLICY: The state maintains an open and public process in the solicitation, submission, review, and award of procurement contracts. All persons are entitled to information regarding state procurement activities.

Competitive bidding, competitive negotiation (RFP), and noncompetitive negotiation require documentation of the procurement process and the results of the action taken.

Records of “the procurement process and the action taken” include the final version of records listed in the forms referenced herein. Personal notes for one’s personal use and preliminary drafts prepared by an originator or in the name of a person or entity for whom the originator is working are not considered part of an official procurement file.

- PROCEDURE:**
- I. Required Elements of Procurement Files
 - A. Agencies will ensure a complete procurement file is constructed based on the type of event being conducted as provided for on DOA-3840: Procurement Recordkeeping Checklist.
 - B. Approved Requests for Procurement Authority are filed in accordance with DOA-3046: Request for Procurement Authority.
 - C. Approved exemption requests for grants or payments made pursuant to statute are filed in accordance with DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute.



Legal Authority

Wis. Stats. 16.75(1)(a); 19.31; 19.32; 19.33; 19.34;
 19.35; 19.36; 19.37; 19.39; 19.85(1)(e); 134.90(1)(c)
 943.205(2)(e)
 Wis. Adm. Code Chapter Adm 8.04
 Agencies Affected: All, unless otherwise noted

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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Number
PRO-105

Section	Effective	Replaces
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PROCUREMENT RECORD RETENTION AND ACCESS	2 of 3	

II. Required Retention of Records

- A. Agencies will follow the Statewide Purchasing and Procurement General Records Schedule as established by the State of Wisconsin Public Records Board.

III. Public Availability of Records

- A. At the agency's discretion, bidders' lists may be kept closed until the timelines identified in III, B and C below. However, in some instances, the agency may choose to provide the bidders/proposers list before such dates to increase competition or encourage vendor partnerships.
- B. The public may inspect Request for Bid (RFB) records and may copy them after the notice of intent to award is issued or, in the case of RFBs for commodities and for RFBs at or below the official bidding threshold, after the contract is awarded. See PRO-304, Bidding Policy and Procedure, Official Sealed Bid.
- C. All Request for Proposal (RFP) (i.e. competitive negotiation) records are available for public inspection after the notice of intent to award is issued or, in the case of RFPs for commodities and for RFPs at or below the official bidding threshold, after the contract is awarded except as noted in III, D or E. below. See PRO-306, Competitive Negotiation (Request for Proposals).
- D. Any record or portion of a record that contains confidential information, or a trade secret, or wage information on printing procurements may be withheld. Such information must be identified as confidential or a



Legal Authority

Wis. Stats. 16.75(1)(a); 19.31; 19.32; 19.33; 19.34;
 19.35; 19.36; 19.37; 19.39; 19.85(1)(e); 134.90(1)(c)
 943.205(2)(e)
 Wis. Adm. Code Chapter Adm 8.04
 Agencies Affected: All, unless otherwise noted

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trade secret by the bidder at the time the bid is submitted. Applicable definitions are contained in PRO-101, Definitions and Thresholds.

- E. Records distributed or generated at a public bid or proposal (where applicable) opening may be available earlier than the timelines set forth in III, B and C above.
- F. Each agency will make available for inspection and copying any record produced or collected by a vendor under a contract to the same extent as if the record were maintained by the agency.
- G. Questions concerning public records disclosure obligations should be directed to the agency's public records legal counsel.

REFERENCE: DOA-3840: Recordkeeping Checklist
DOA-3046: Request for Procurement Authority
DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute



Legal Authority

Wis. Stats.16.75(1)(a); 19.31; 19.32; 19.33; 19.34;
19.35; 19.36; 19.37; 19.39; 19.85(1)(e); 134.90(1)(c)
943.205(2)(e)
Wis. Adm. Code Chapter Adm 8.04
Agencies Affected: All, unless otherwise noted

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State Bureau of Procurement



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Number
PRO-106

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-E-8 (6-1-83)
Title	Page	
PRIOR APPROVAL OF PURCHASES/UNAUTHORIZED PURCHASES	1 of 1	

SCOPE: The scope of this policy is related to prior approval requirements for purchasing activities, and unauthorized purchases.

POLICY: All procurement actions require prior approval of the State Bureau of Procurement. Approval authority may, in some cases, be delegated to state agency offices. When so delegated, approval by the agency office is required prior to any procurement action. See PRO-102, Delegation.

Any state employee who contracts for the purchase of materials or services contrary to a statute or to Bureau policies and procedures may be liable for the cost. If such materials or services are paid for out of public funds, the amount may be recovered in action filed by the Attorney General. Any procurement contract that is contrary to state statutes is void.

- PROCEDURE:**
- I. After-the-Fact Approval
 - A. Generally, the Bureau will not consider an after-the-fact approval of a purchase that was not properly conducted. In any case where prior approval has not been obtained, the Bureau requires the following data before it considers an after-the-fact approval request.
 1. Justification for the procurement itself and for the lack of prior approval.
 2. A statement of management actions being taken to prevent repetition of the situation.
 3. The agency head's indication of review and approval.
 - B. Where such approval is not provided, the Bureau will issue an unauthorized purchase letter which will be retained by the procuring agency.



Legal Authority

Wis. Stats. ss. 16.52(6); 16.72(4)(a); 16.77
Wis. Adm. Code Chapter 10.04
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



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Number
PRO-107

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-C-27 (9-18-12)
Title	Page	
SERIAL CONTRACTING	1 of 1	

SCOPE: The purpose of this policy is to establish the prohibition on serial contracting and codify procedures for how such activity will be addressed.

POLICY: "Serial contracting" is the practice of a procuring agency issuing a series of purchases (all methods) to the same vendor for the same good or service over a short period of time, but up to a single fiscal year, without use of a competitive process or a waiver as required under state purchasing policies, procedures and law. See PRO-408, Purchase Requisitions, Orders and Methods of Payment.

Serial contracting is prohibited and considered a form of unauthorized purchasing. See PRO-106, Prior Approval or Purchases/Unauthorized Purchases. Procuring agencies have a responsibility to train staff, monitor and correct for these activities. See PRO-110, Management Reviews.

- PROCEDURE:**
- I. Monitoring and Corrective Action
 - A. At least annually, each delegated or subdelegated agency will review its purchases to improve internal controls, take necessary corrective action when serial contracting is found, and seek cost-saving measures associated with consolidating similar procurements.
 - B. In agencies where sub-delegation is in place, the findings of sub-delegated agent reviews will be reported to the special delegated agent and the central purchasing office.
 - C. The State Bureau of Procurement in cooperation with the Department of Administration, State Controller’s Office will perform periodic reviews to determine compliance with this policy. The Bureau, Consolidated Agency Purchasing Services, will perform the same for its assigned agencies.



Legal Authority

Wis. Stats. ss. 16.75(1)(b), (c); 16.75(6)(c); 16.77

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
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Number
PRO-108

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-D-20 (1-1-82)
Title	Page	
ENDORSEMENT, TESTIMONIAL AND PROMOTIONAL ACTIVITIES	1 of 1	

SCOPE: The purpose of this policy is to establish the proper protocol for promoting state contracts and/or serving as a reference for suppliers, and to provide notice of prohibited endorsement or testimonial activities.

POLICY: Competitively bid contracts carry value to state agencies and will be promoted to eligible users of the contract(s) using objective facts and through fair, transparent communication best practices.

Any unauthorized reference to or use of the State of Wisconsin, the Great Seal of the State, the Wisconsin Coat of Arms, any agency or other subunits of Wisconsin state government, or any state official or employee, for commercial promotion is strictly prohibited.

News releases or release of broadcast e-mails pertaining to contracts shall not be made without prior written approval of the procuring agency.

At their discretion, state agencies may serve as a reference related to supplier performance on their contracts.

PROCEDURE: I. Statements of Endorsement and/or Testimonial

State agencies will not issue endorsements and/or testimonials, in any form, for any materials, supplies, equipment, or contractual services which are purchased and used.

II. Notice to Suppliers

State agencies are responsible for advising all suppliers of the limits on promotional advertising as expressed herein.



Legal Authority

Wis. Stats. s. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

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State Bureau of Procurement



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Number
PRO-109

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-D-8 (12-1-86)
Title		Page
CODE OF PROCUREMENT ETHICS AND UNLAWFUL BENEFITS TO STATE EMPLOYEES, PUBLIC OFFICIALS		1 of 1

SCOPE: The purpose of this policy is to establish a code of procurement ethics and provide notice with respect to unlawful benefits to state employees and public officials.

POLICY: Procurement Ethics

State procurement activities are to be done in a manner that upholds public confidence in awarding state contracts.

The primary principles and goals of public procurement are to ensure the integrity of the process, maximize the competitive leverage of the state to achieve the best value, and avoid even the appearance of any conflict of interest in procurement decisions.

State employees hold their position in the public trust; any staff involved with the awarding or managing of contracts will practice impartiality. See PRO-108, Endorsement, Testimonial and Promotional Activities.

Unlawful Benefits

No state employee or public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. For the definition of “anything of value”, see PRO-101, Procurement Definitions and Thresholds.



Legal Authority

Wis. Stats. ss. 19.41; 19.45(2)
Admin Code Ch. ER-MRS 24.04

Agencies Affected: All, unless otherwise noted

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Number
PRO-110

Section	Effective	Replaces
INTRODUCTION AND PROCUREMENT FUNDAMENTALS	9/16/19	PRO-A-6 (11-30-12)
Title		Page
MANAGEMENT REVIEWS		1 of 2

SCOPE: The purpose of this policy is to establish authority for the function of management reviews with the State Bureau of Procurement (Bureau), and to define agency responsibility for the retention and provision of records for management review purposes.

POLICY: Delegation of authority by the Bureau carries with it the responsibility to conduct management reviews of those delegated processes to assure that the intent of the authorizing legislation is fulfilled, and the terms of the delegation granted by the Department of Administration are met. See PRO-102, Delegation.

Assumption of delegated authority by a state agency carries with it the responsibility to perform under the rules and the procedures involved and to provide a documented review trail for after-the-fact review of performance upon request by the Bureau.

- PROCEDURE:**
- I. Agency Reviews
 - A. The agency will ensure a formalized management review program exists to create and maintain internal controls and internally monitor compliance with procurement statutes, administrative codes, state and agency policies and procedures.
 - B. The agency will perform periodic management reviews of internal procurements and processes to ensure compliance. Following management reviews, the agency will compile a report of the findings to be made available upon request.
 - II. Bureau Reviews
 - A. The Bureau may choose to perform its own management review of the agency's procurement processes. The agency will



Legal Authority

Wis. Stats. ss. 16.004(4)(5)(6); 16.71; 16.72(4);
16.82(1)(2)(3)
Agencies Affected: All, unless otherwise noted

Authorized:
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State Bureau of Procurement



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PRO-110

Section	Effective	Replaces
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provide all information from its internal management reviews to the Bureau for its management review or upon request.

III. Records Retention for Management Review

- A. Purchasing decisions are subject to challenge, sometimes long after the fact. Therefore, records and files are to be maintained and kept in useable, accessible condition for access.
- B. Failure to maintain accessible and thorough records of performance and actions taken is cause for a review of, or withdrawal of, certain levels of delegated authority.
- C. Input of records and documents to automated systems that are used for review purposes must be accurate and complete. See PRO-105, Procurement Record Retention and Access.



Legal Authority

Wis. Stats. ss. 16.004(4)(5)(6); 16.71; 16.72(4);
16.82(1)(2)(3)
Agencies Affected: All, unless otherwise noted

Authorized:
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State Bureau of Procurement

200-Series: Planning and Procurement Strategy

This section of the Manual covers the various methods of obtaining pre-solicitation approvals and the tools available to agencies to properly plan for procurement activities.

PRO-201 Procurement Plans

PRO-202 Specifications and Standards

PRO-203 Standards and Specification Development Committees

PRO-204 Contractual Services Procurement

PRO-205 Cost Benefit Analysis (CBA), Continued Appropriateness and Justification of Need for Services

PRO-206 Length of Contracts

PRO-207 Request for Information and Other Pre-Sourcing Methods

PRO-208 Life Cycle Costing

PRO-209 Sustainability in Procurement

PRO-210 Request for Purchasing Authority (RPA) Policy and Procedure



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PRO-201

Section	Effective	Replaces
PLANNING AND PROCUREMENT STRATEGY	9/16/19	PRO-A-4 (10-31-11)
Title		Page
PROCUREMENT PLANS		1 of 2

SCOPE: The scope of this policy is to establish requirements and procedure for submitting procurement plans and to simplify the approval process to obtain authority to conduct certain transactions as listed in this policy.

POLICY: Agencies will complete a procurement plan for the processes outlined below and based on defined thresholds. See PRO-101, Procurement Definitions and Thresholds.

- Requests for proposals (RFP) in all amounts; see PRO-306.
- Collaborative Contracting methods except piggybacking; see PRO-502.
- Requests for bids (RFB) for services, or RFBs for commodities where there is an estimated service component valued over the official sealed bidding threshold; see PRO-304.
- Transactions over the official bidding threshold where more than one agency is participating in the procurement

The following purchases do not require a procurement plan:

- Transactions below the official bidding threshold
- Request for Procurement Authority (RPA); see PRO-210.
- RFB for commodities
- Piggybacking from other agency contracts; see PRO-502.
- Purchases using statewide contracts

Printing is bid (RFPs are not allowed) in accordance with an agency’s level of delegation and applicable policy; see PRO-505, Printing Procurement Policy and Procedure. Agency delegation to conduct other procurement processes is established in PRO-102, Delegation.

PROCEDURE:

- I. Submittal and Review
 - A. Agencies with delegation, and those not otherwise supported by Consolidated Agency Purchasing Services (CAPS), will complete a procurement plan using form DOA-3720 for each



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

Agencies Affected: All, unless otherwise noted

Authorized:

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State Bureau of Procurement



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Number
PRO-201

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Title PROCUREMENT PLANS		Page 2 of 2

anticipated procurement and submit to the Bureau as instructed.

- B. The Bureau will review plans and provide a written determination. With confirmation, the agency is permitted to proceed with the procurement outlined in its plan, unless otherwise stipulated. The agency will retain a copy of the plan in its procurement file, along with the Bureau's response.
- C. CAPS agencies will work through CAPS staff, who will follow steps A-B.

REFERENCE: DOA-3720: Procurement Plan



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4); 16.75(1)(c)

Agencies Affected: All, unless otherwise noted

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State Bureau of Procurement



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Number
PRO-202

Section	Effective	Replaces
PLANNING AND PROCUREMENT STRATEGY	9/16/19	PRO-B-4, B-6 Various Dates
Title	Page	
SPECIFICATIONS AND STANDARDS	1 of 4	

SCOPE: The purpose of this policy is to establish the standards and key considerations for the development of procurement specifications.

POLICY: Specifications presented to potential suppliers define both the product or performance requirements of the contract, and the time in which performance is to take place.

Specifications presented in a solicitation shall be the specifications appearing in any resulting contract. See Section IV herein. Approvals to conduct the solicitation, granted based on an original set of specifications, may be voided if the specifications in the final contract vary materially from the original. See PRO-201, Procurement Plans.

Standard specifications are established only by the State Bureau of Procurement. Only the Bureau may solicit and establish contracts for standard goods and services. Agencies will use contracts for standard goods and services in accordance with PRO-402, Statewide Contracts: Standards and Utilization.

Non-standard specifications can be established by the Bureau or any agency in accordance with their delegation. See PRO-102, Delegation.

- PROCEDURE:**
- I. Key Elements
 - A. Specifications are written in concise, measurable terms and include the results to be achieved by the supplier, clearly defining the need to be filled. See PRO-203, Standards and Specification Development Committees.
 - B. Specifications will be prepared to preclude unnecessarily restrictive provisions and encourage competition.



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b); 16.75(1)(a);
16.75(2)(a)
Wis. Admin. Code Adm 7.03; 7.04

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State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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- C. Specifications drawn for the purchase of equipment to be used by the state must contain reference to safety factors, presented in generic form, excluding brand names. See PRO-404, Standard Terms and Conditions.
- D. To the extent possible, specifications will be written to permit the purchase of materials manufactured in the United States as defined in s. 16.754(1). See PRO-605, American-made Materials Policy.
- E. Specifications related to the provision of contractual services will be written in accordance with PRO-204, Contractual Services Procurement.
- F. Where possible, specifications will be written in accordance with recyclability and waste reduction properly considered. See PRO-209, Sustainability in Procurement.

II. Standard Specifications

- A. The Bureau prepares standard specifications, as far as possible, for all state purchases. A standard specification is prepared to describe in detail the article desired for purchase.
 - 1. Trade names are not used in writing standard specifications. However, if the potential bidders for a solicitation are resellers, distributors or competitive representatives of a trade name product, the trade name may be used as the competitive process is not restrained.
 - 2. On the formulation, adoption and modification of any standard specification, the Bureau may request and be



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b); 16.75(1)(a);
16.75(2)(a)
Wis. Admin. Code Adm 7.03; 7.04

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State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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afforded without cost the assistance of other state agencies, including but not limited to agency participation in Bureau surveys.

3. Each standard specification adopted satisfies, insofar as possible, the requirements of any and all agencies making common use of it.

B. Records of established standard specifications will be kept and managed in accordance with PRO-105, Procurement Record Retention and Access.

III. Non-Standard Specifications

A. The Bureau, or an agency through delegation, prepares or reviews specifications for all materials, supplies, equipment and contractual services not purchased under standard specifications.

B. Nonstandard specifications may be generic or performance specifications, or both, prepared to describe in detail the article desired for purchase either by its physical properties or programmatic ability.

C. Trade names are not used in writing nonstandard specifications unless this is determined to be inappropriate. The rationale for using trade names will be documented in the procurement file.

1. When it is necessary to use trade names to communicate a level of quality, performance or compatibility, the specifications will give at least two, preferably three, examples of trade names of articles purchased in the past.



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b); 16.75(1)(a);
16.75(2)(a)
Wis. Admin. Code Adm 7.03; 7.04

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2. Where one of the trade names used is that of a Wisconsin producer, distributor or supplier, that trade name shall appear first.

IV. Modifications to Specifications

- A. Specifications amended prior to the due date of a solicitation will be so amended in accordance with applicable policy. See PRO-304, Bidding Policy and Procedure, Official Sealed Bid and PRO-306, Competitive Negotiation (Request for Proposals).
- B. Additional contract provisions may be added, or specifications may be deleted or modified if the changes would not have provided a significant competitive advantage at the time the bids were taken.



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b); 16.75(1)(a);
16.75(2)(a)
Wis. Admin. Code Adm 7.03; 7.04

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Agencies Affected: All, unless otherwise noted



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Number
PRO-203

Section	Effective	Replaces
PLANNING AND PROCUREMENT STRATEGY	9/16/19	PRO-B-8 (9-1-83)
Title		Page
STANDARDS AND SPECIFICATION DEVELOPMENT COMMITTEES		1 of 2

SCOPE: The purpose of this policy is to establish the function and composition of standards committees for the State Bureau of Procurement, and specification development committees for delegated agencies.

POLICY: Standards committees may be formed by the Bureau for the following purposes:

- Drafting standard specifications for a statewide contract
- Establishing standardized policies or procedures affecting a specific commodity or procurement technique
- Resolving disputes or rectifying unusual situations related to a contract or specific commodity or service category
- Conducting pilot projects in commodity or service categories not yet covered by an existing standard or statewide contract

A standards committee is formed in instances where several state agencies are involved, and the aggregate spend or potential savings warrant such action. Standards committees serve in an advisory capacity to the Bureau.

- PROCEDURE:**
- I. Standards Committee Composition and Duties
 - A. A standards committee consists of the procurement manager from the Bureau as the lead, other selected designees from the Bureau, and various state agency personnel based on subject matter expertise of a commodity or service.
 - B. The lead is responsible for selecting members to participate. Agency interest and final committee member invitations will be made in writing.



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b)

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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- C. The committee may engage suppliers when necessary before finalizing standard specifications and contract conditions to ensure that they are compatible with the market.
 - D. The lead may appoint task groups from the membership to be given specific assignments and asked to report to the committee.
- II. Lead Responsibilities
- A. The committee convenes upon call by the lead to hear, discuss, and make recommendations of solutions or actions the Bureau might consider taking.
 - B. The lead coordinates all activities involving use of standards committees or special task groups assigned from such committees. Records of meetings and work products are kept in accordance with PRO-105, Procurement Record Retention and Access.
- III. Specification Development Committees
- A. For non-standard specifications, the Bureau or delegated agencies may convene specification development committees comprised of subject matter experts and other personnel with special knowledge of the good or service.
 - B. The composition and duties of specification development committees are the discretion of the procuring agency so long as the requirements of PRO-202, Specifications and Standards and other applicable policies are met.



Legal Authority

Wis. Stats. s. 16.72(2)(a) and (b)

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director

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SCOPE: The scope of this policy is to establish the unique requirements and procedures related to the procurement of contractual services.

POLICY: The State Bureau of Procurement and agencies have the responsibility to promote maximum competition and to comply with unique requirements applicable to the purchase of contractual services.

Cost Benefit Analysis and Continued Appropriateness Reviews

Agencies may purchase services which can be performed more economically or efficiently by contract. See PRO-205, Cost Benefit Analysis (CBA), Continued Appropriateness and Justification of Need for Services.

American Services

Pursuant to s. 16.705(1r), Wis. Stats., services must be performed within the United States unless excepted. Countries party to the World Trade Agreement are not subject to this provision. See PRO-604, World Trade Organization Government Procurement Agreement.

Protests and Appeals

For contractual services procurements over the official bidding threshold, the aggrieved bidder, procuring agency, and the Department of Administration have specific roles and responsibilities related to the appeals process. For protests related to RFPs, the subjective judgment of evaluators is not appealable.

Justification of Need Documentation

For contractual services procurements over the official bidding threshold, agencies must provide justification to enter into contracts for services pursuant to s. 16.705(2)(c), Wis. Stats. and contracts for services cannot be



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

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Agencies Affected: All, unless otherwise noted



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approved unless the justification conforms to such requirements, and those of ss. 16.71 to 16.77, Wis. Stats.

Independence of Relationship

Agencies will establish processes to ensure services contracts include a review of the independence and relationship, if any, of the contractor to employees of the agency, disclosure of any former employment of the contractor or employees of the contractor with the agency, and a procedure to minimize the likelihood of selecting a contractor who provides or is likely to provide services to industries, client groups or individuals who are the object of state regulation or the recipients of state funding to a degree that the contractor's independence would be compromised.

Employee-Employer Relationship

An essential element of the purchase of services is the independent entrepreneurial relationship between the contractor and the state, i.e., exclusion of any element of an employer-employee relationship. The existence of a contract alone does not negate the possible existence of an employee-employer relationship.

An employee under the Social Security Act is "any person who under the usual common law rules applicable in determining employer-employee relationship has the status of an employee." Agencies will ensure they are practicing due diligence to avoid establishing an employee-employer relationship in services contracts.

Contract Administrator

All contracts for services must have a named person responsible for administering the contract. See PRO-405, Contract Administration.



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

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Background Checks

If services are performed by individual(s) with access to federal tax information received directly from the Internal Revenue Service (IRS), or a source authorized by the IRS to provide it, agencies will ensure a background check is performed for each individual pursuant to s. 16.705(1s), Wis. Stats.

Banking, Security and Legal Services

Procurement of contractual services is delegated to agencies through formal delegation; see PRO-102, Delegation. However, certain services procurements cannot be delegated or must be approved alternatively. See PRO-512, Services Requiring Special Approval Authority: Banking and Security Services and PRO-511, Legal Services.

Exceptions:

This policy does not apply to any contracts under ss. 16.75(2)(b) for utilities; 16.87 for construction and environmental consultant services; or 84.01(13) for engineering, consulting, surveying or other specialized services; or Chapter 35, Wis. Stats., for printing.

PROCEDURE:

- I. American Services
 - A. Contractual services must be performed within the United States except under the following circumstances:
 1. Contractual services are not available to be performed within the United States.
 2. If the payment for any part of the contractual services is made from federal moneys.



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

Agencies Affected: All, unless otherwise noted

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3. The renewal, modification, or extension of any contract in effect on or prior to March 18, 2010.
 4. Contractual services purchased by the Board of Regents of the University of Wisconsin System with moneys appropriated under s. 20.285 (1) (ge), (u), or (w).
 5. Contractual services purchased by the University of Wisconsin-Madison with moneys appropriated under s. 20.285 (1) (ge), (u), or (w).
- B. For contracts that are not excepted under I, A, procuring agencies will incorporate specifications into solicitations in accordance with PRO-202, Specifications and Standards.

II. Protest and Appeals

- A. Procuring agencies will include a standard provision related to protest and appeals rights in applicable solicitation documents for contractual services. The provision must align with required timelines and official procedures for handling protests and appeals as prescribed herein.
- B. A bidder or proposer who is aggrieved in connection with 1) a solicitation or 2) the notice of intent to award a contract may protest to the procuring agency.
- C. Protestors will make their protests as specific as possible and identify statutes and Wisconsin Administrative Code provisions that are alleged to have been violated.
 1. A notice of intent to protest will be submitted in writing to the head of the procuring agency, or designee within



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

Agencies Affected: All, unless otherwise noted

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five (5) working days after issuance of the solicitation or the notice of intent to award.

2. The protest will be submitted in writing to the head of the procuring agency, or designee, within ten (10) working days after issuance of the solicitation or the notice of intent to award.
 3. The head of the procuring agency, or designee, has the authority to resolve a protest concerning the solicitation or the intent to award a contract. If the head of the procuring agency delegates his/her authority related to handling protests, the designee must be appointed in writing.
 4. The head of the procuring agency, or designee, will issue a decision in writing to the protestor and a copy to the Secretary of the Department of Administration.
 5. Upon issuance of the protest response, the procuring agency's special designated agent will provide a copy of the response to the Director of the State Bureau of Procurement.
- D. The protestor may appeal the decision of the procuring agency to the Secretary of the Department of Administration within five (5) working days of issuance of the decision, with a copy of such appeal filed with the procuring agency, if the protestor alleges a violation of applicable Wisconsin State Statute or Wisconsin Administrative Code. The agency will be notified immediately if an appeal is received. The Secretary will take necessary action to settle and resolve the appeal and will



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

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promptly issue a decision in writing to the individual appealing and the procuring agency.

- E. When a timely notice of either an intent to protest, a protest, or an appeal is received, the state will not proceed further with the solicitation or with the award of the contract until a decision is rendered in response to the protest or appeal, or unless the Secretary of the Department of Administration, after consultation with the head of the procuring agency, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the state.

III. Independence of Relationship

Agencies will incorporate clauses from the Supplemental Standard Terms and Conditions as provided for in PRO-404, Standard Terms and Conditions.

IV. Performance Reviews

As applicable, agencies will report unsatisfactory contract performance as required by the Bureau. See PRO-413, Reporting Supplier Complaints.



Legal Authority

Wis. Stats. s. 16.705; 16.71; 16.72(4)(a)
Wis. Admin Code Adm 10

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COST BENEFIT ANALYSIS (CBA), CONTINUED APPROPRIATENESS AND JUSTIFICATION OF NEED FOR SERVICES		1 of 4

SCOPE: The scope of this policy is to establish requirements and procedure for completing cost benefit analyses (CBAs), continued appropriateness of contracting for services, justification of need and certain exemptions from these requirements.

POLICY: Agencies will complete a justification of need analysis for contractual services procurements over the official bidding threshold.

Agencies will also complete a uniform cost benefit analysis and, before any renewal, will review the continued appropriateness of contracting, for each proposed contractual service procurement at or above the CBA/CA threshold (agency contracts and use of enterprise contracts). See PRO-101, Procurement Definitions and Thresholds.

These requirements do not apply to the following:

- 1) Services that federal or state law requires to be performed by contract.
- 2) Services that must be provided per a contract, license, or warranty, by the original equipment manufacturer or publisher.
- 3) Services that cannot be performed by state employees because the state lacks the required infrastructure.
- 4) Web-based software application services that are delivered and managed remotely.

PROCEDURE: I. Justification of Need

The justification of need to procure contractual services includes:



Legal Authority

Wis. Stats. 16.705(1)(2)
Wis. Adm. Code Chapter Adm 10.035; 10.037; 10.038

Authorized:
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State Bureau of Procurement

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1. Justification written in clear, nontechnical language that can be understood by persons not directly involved or familiar with the specific request, all acronyms defined.
2. Reference to federal or state law or regulation which requires or authorizes contractual services (if applicable).
3. Description of the services to be performed, a list of any items to be delivered, complete schedules and timetables, and any other specific conditions to be required of the contractor.
4. Statement showing why the services can be performed more economically or efficiently as calculated on a CBA. For services contracts that are exempt from CBA requirements, this statement will contain similar considerations as those provided for in CBAs.
5. Statement showing why it is not possible to have the services performed by another state agency.
6. Statement that competitive bidding will be used or a justification for using the proposed alternative when competitive bidding is not used.

II. CBA Factors

- A. Analyses compare the costs of employing contractors versus comparable state staff. Other mitigating factors that may be included in the cost analysis are:



Legal Authority

Wis. Stats. 16.705(1)(2)
Wis. Adm. Code Chapter Adm 10.035; 10.037; 10.038

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1. Market strength: Are there several vendors that can perform this service? Is the labor market tight so that it is difficult to retain and recruit employees?
2. Quality and nature of services required: Is the work a core service of state government?
3. Risk factors: Is there a possibility a private firm may fail to provide the service the agency has guaranteed or reduce services if financial losses occur? Is there a risk of compromising confidential information?
4. Time factors: Is it a short-term service or an ongoing need?
5. Specialized skills: Does the state workforce have the capacity and expertise to complete the project?
6. Legal barriers: Are there federal mandates, state statutes, and administrative rules that dictate the level which government must perform? Would contracting out affect access of services or treatment?

III. Continued Appropriateness Reviews

The agency will analyze the continued appropriateness of contracting before any renewal, regardless of whether a CBA was completed for the original solicitation or use of a contract.

IV. Required Forms and Submittal

- A. For Justification of Need analyses, the agency will complete and retain form DOA-3821a, Justification of Need and Cost Benefit Analysis Project Summary, sections 1-3 only.



Legal Authority

Wis. Stats. 16.705(1)(2)
Wis. Adm. Code Chapter Adm 10.035; 10.037; 10.038

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- B. For CBAs, the agency will complete and retain forms DOA-3821a in its entirety and DOA-3821b, Cost Benefit Analysis—Financial Information as instructed.
- C. For continued appropriateness reviews, agencies will complete and retain form DOA-3819, Continued Appropriateness of Contracting for Annual Expenditure of Services as instructed.
- D. Completed, unsigned forms will be submitted to the Bureau electronically via email to DOAcba@wisconsin.gov. The approved and signed original will be kept on file with the procuring agency. CBA financials on DOA-3821b must be submitted to the Bureau in spreadsheet format.

REFERENCE: DOA-3821I, CBA Project Instructions

DOA-3821a, Justification of Need and Cost Benefit Analysis—Project Summary

DOA-3821b, Cost Benefit Analysis—Financial Information

DOA-3819, Continued Appropriateness of Contracting for Annual Expenditure of Services



Legal Authority
 Wis. Stats. 16.705(1)(2)
 Wis. Adm. Code Chapter Adm 10.035; 10.037; 10.038

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SCOPE: The purpose of this policy is to establish guidelines for the proper duration of state procurement contracts.

POLICY: Contracts may be for any term deemed to be in the best interests of the state, but the terms and provisions for renewal or extension, if any, will be incorporated in the original bid or proposal specifications and the contract document. Renewal action is subject to the availability of funds.

The guidelines contained herein will be followed to determine the length of terms for procurement contracts.

PROCEDURE: I. Contracts for General Goods and Services

Term: Up to five years in increments to be determined by the agency

These contracts are for general goods and services that are bid and awarded by an agency; see PRO-202, Specifications and Standards. These contracts involve the issuance of multiple purchases, over the term of one year, by the agency purchasing offices. They involve performance on the part of the contractor that is normal and usual in the contractor's line of business. Investment or inventory requirements on the part of the contractor are minimal, and usual.

II. Contracts Requiring Significant State or Supplier Investment

Term: Up to three years initial term with renewal options at the discretion of the agency

These contracts involve a significant investment on the part of the state or the supplier as a condition to entering into, or terminating, the contracts. These contracts generally involve significant start-up, or conversion, costs. Benefits are derived by the state by



Legal Authority

Wis. Stats. s. 16.75(2)(b); 16.75(3); 16.91(2)

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limiting, as much as practical, the frequency of incurring the start-up or conversion costs by contracting for longer periods of time than one year. When these contracts pass from one contractor to another, the state faces such costs as those involved in transporting state-owned inventories from one contractor to another or carrying duplicates or disposal of incompatible product inventories. The cost of testing/inspection/approval of new contractors' products or facilities may be involved.

For supplier investment, contracts may require the contractor to acquire capital equipment where the investment is amortized over the life of the contract.

III. Contracts for Extended Performance

Term: Up to three years initial term with renewal options at the discretion of the agency

These contracts are for vendor performance over an extended period where this is determined to be in the best interests of the state, rather than contracts for one year. Generally, these contracts are for maintenance of capital equipment or major operating systems where continuous performance by the contractor is most likely to be beneficial to the contractor, therefore to the state. This type of contract is used to prevent short-term "fix" maintenance when this can result in deterioration to capital equipment or major operating systems.

IV. Contracts for Lease/Lease-Purchase

Term: Up to eight years

These contracts involve the lease or lease-purchase of equipment by the state. Contracts that are matched to the contractor's



Legal Authority

Wis. Stats. s. 16.75(2)(b); 16.75(3); 16.91(2)

Agencies Affected: All, unless otherwise noted

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amortization schedule reduce the contractor's cost and, in a competitive bidding situation, reduce costs to the state.

V. Contracts for Specific, Indefinite Services

Term: As required

These contracts run for a term required by their conditions and contents. Examples include foreign office management, research services for a specific long term; investigation and testimony, expert witnesses.

VI. Printing Contracts

1. Statewide Bureau of Procurement or UW Local Service contracts for printing of classes 3, 4, 7 and 8

Term: As required, not to exceed three years total
These contracts are for transactions initiated by several state agency offices that involve the issue of multiple printing orders for similar types of printing.

2. Contracts for legislative printing, Class 1

Term: Two years (legislative term)

These contracts are for transactions initiated by legislative offices of multiple printing orders for similar types of printing that are bid and awarded for a period, in this case the two-year term of the legislature.

3. Contracts for a single product that requires exact reprints or repetitive production; or specific product with variations between orders.



Legal Authority

Wis. Stats. s. 16.75(2)(b); 16.75(3); 16.91(2)

Agencies Affected: All, unless otherwise noted

Authorized:

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Term: As required, not to exceed three years total

These contracts are for products for which one or more printings of an original (exact or with variation between orders) are required and are used when the specifications or terms do not fit an existing State Procurement statewide contract. When provided for in the original bid and award document, repetitive printing is permitted.



Legal Authority

Wis. Stats. s. 16.75(2)(b); 16.75(3); 16.91(2)

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REQUEST FOR INFORMATION AND OTHER PRE-SOURCING METHODS		1 of 1

SCOPE: The purpose of this policy is to establish the request for information process, and other comparable pre-sourcing methods, used by state agencies to obtain preliminary information for a potential procurement.

POLICY: Agencies may use various methods to obtain information from potential suppliers to aid in the development of a solicitation. A request for information (RFI) or comparable methods are used to obtain information only and cannot be used as a substitute for the competitive process.

RFIs and other similar tools should be clearly marked as such and state that it cannot be used to establish a contractual commitment.

Forms and templates used to manage the request for bids/proposals process will not be used for the solicitation of information or cost estimates. These estimates may not be used later as responsive bids.

Documents related to RFIs and other pre-sourcing methods will be retained and made available to the public in accordance with PRO-105, Procurement Record Retention and Access.

PROCEDURE: I. Request for Information

An RFI may include general questions or specific questions related to the need of the agency. Cost or price estimates may be obtained. An RFI template is available for state agency use.

II. Draft Solicitation for Supplier Comment

A draft of an upcoming solicitation may be posted with a request to potential bidders or proposers to review and provide written feedback. A template cover letter for draft solicitations is available for state agency use.



Legal Authority

Wis. Stats. s. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

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LIFE CYCLE COSTING	1 of 1	

SCOPE: The purpose of this policy is to establish the requirement to use life cycle costing where applicable and to provide guidance on the construction of life cycle cost formulations.

POLICY: Pursuant to s. 16.75(1m), Wis. Stats, orders and contracts made by the state for materials, supplies, equipment and contractual services shall be awarded based on life cycle cost estimates whenever such action is appropriate.

When life cycle cost considerations are used, the bid or proposal selected may not be the lowest initial cost. See PRO-305, Basis for Bid Awards and PRO-308, Basis of Award for Competitive Negotiation (RFP).

- PROCEDURE:**
- I. Use of Life Cycle Costing
 - A. When life cycle costing is used, the terms, conditions and criteria or methodology shall be applied as incorporated into the solicitation.
 - B. The life cycle cost formula includes, but is not limited to, the applicable costs of energy efficiency, acquisition and conversion, money, transportation, warehousing and distribution, training, operation and maintenance, and disposition or resale.

II. Technical Guidance

The department, through the State Bureau of Procurement (Bureau), is available to provide guidance upon request for constructing life cycle cost formulations.



Legal Authority

Wis. Stats. s. 16.75(1)(a); (1m) (a) and (b)

Agencies Affected: All, unless otherwise noted

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SCOPE: The purpose of this policy is to promote development of contract specifications that minimize the generation of solid waste and increase recyclability, and to establish procedures to follow in purchasing goods with recycled content.

POLICY: The Bureau of Procurement, state agencies and authorities as prescribed in s. 16.72(2)(e), Wis. Stats, have certain responsibilities to promote the purchase of recycled or recovered materials, and to minimize solid waste generation through its procurement activities to the extent practicable.

To achieve the goals of recycling and waste reduction in procurement, actions will include revising specifications, bidding effectively, and purchasing recycled or recovered products.

Equipment procurement and the consideration of energy use factors is covered by PRO-510, Procurement of Equipment: Energy-Efficient and Graphic Reproduction.

Use of life cycle costing is consistent with sustainability goals and will be followed when applicable. See PRO-208, Life Cycle Costing.

The Bureau's role is to assist state agencies in achieving these goals, and ensuring standards set in state contracts allow for recycled, recovered, and energy-efficient products wherever technically and economically feasible.

- PROCEDURE:**
- I. Specification Development
 - A. State agencies will write product specifications which incorporate requirements for recycled materials and recovered materials when technically and economically feasible. Specifications should not contain unnecessary prohibitions to products made from recycled materials or recovered materials.



Legal Authority

Wis. Stats. s. 16.70 (11), (12), (13); 16.71;
16.72(2)(e), (f); 16.75(8)(am), (bm), (9); s. 287.05(12)
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State Bureau of Procurement



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B. Priority categories currently include:

- Paper and paper products
- Plastic and plastic products
- Glass and glass products
- Motor oil and lubricants
- Construction materials, including insulating materials
- Furnishings, including rugs, carpet, and furniture
- Highway equipment, including signs, signposts, reflectors, guardrails, lane dividers, and barricades

C. Specifications should include requirements that minimize solid waste in accordance with the state solid waste management priorities as identified in s. 287.05(12), Wis. Stats, currently including:

1. The reduction of the amount of solid waste generated (such as reduced packaging)
2. The reuse of solid waste
3. The recycling of solid waste
4. The composting of solid waste
5. The recovery of energy from solid waste
6. The burning of solid waste

D. Specifications will favor durable, multiple-use items over single-use disposable products and acknowledge ultimate disposal and recyclability of products.



Legal Authority

Wis. Stats. s. 16.70 (11), (12), (13); 16.71;
16.72(2)(e), (f); 16.75(8)(am), (bm), (9); s. 287.05(12)
Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

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PRO-209

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E. In the case of paper, specifications will use the Environmental Protection Agency (EPA) definitions of the terms “recovered material” and “postconsumer recovered material”.

1. Paper specifications will achieve the maximum postconsumer content that is reasonably available from at least two manufacturers and that satisfies performance standards.
2. The criteria for determining realistic recycled content specifications are adequate supply, a competitive market and a reasonable price.
3. A mill certification, which is a letter from a paper mill that confirms the recycled content of contracted paper, can be used to confirm use of EPA definitions for recovered and postconsumer recovered material.

II. Bidding Structures

- A. Agencies will determine the suitability of recycled products for their use by determining appropriate performance and/or quality requirements.
- B. Price and availability of recycled products will influence an agency's consideration of bid structure options that include but are not limited to:
 1. The recycled product is specified and bid independently.
 2. The recycled product and its nonrecycled counterpart are combined into a single low bid category only when both products are comparable in price.



Legal Authority

Wis. Stats. s. 16.70 (11), (12), (13); 16.71; 16.72(2)(e), (f); 16.75(8)(am), (bm), (9); s. 287.05(12)
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3. The recycled product and nonrecycled counterpart are included on one bid but are in different lots for which separate awards can be made.
4. Bidding the recycled product is encouraged as an option or an alternative.
5. Information on recycled products is requested but does not form an integral part of the specification.

III. Sustainable Purchasing Selections

- A. Statewide contracts will include standard commodity recycled products when the following factors are present:
 1. Demonstrated quality and performance
 2. Proven, consistent and adequate supply
 3. Competitive market
 4. Reasonable price (often within 10% of the nonrecycled counterpart)
- B. Statewide mandatory contracts with a scope of only recycled or recovered products will be used by all agencies. See PRO-402, Statewide Contracts: Standards and Utilization.
- C. On statewide optional contracts, or on mandatory contracts that contain both recycled/recovered and non-recycled/recovered products, agencies are expected to purchase the recycled option when prices are the same.



Legal Authority

Wis. Stats. s. 16.70 (11), (12), (13); 16.71;
16.72(2)(e), (f); 16.75(8)(am), (bm), (9); s. 287.05(12)
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IV. Recycled Paper Products

- A. The average recycled content of all paper purchased, measured as a proportion by weight of the fiber content, must be at least 40% of all purchased paper.
- B. Paper purchases include procurement of paper and paper products, as well as paper purchased through services where paper is a substantial portion of the overall cost of the service, such as printing, quick-copy, and computer print-out.
- C. The method used for calculating the recycled fiber content by weight includes multiplying the percentage recycled by the weight of the paper purchased.
- D. Paper purchases should be claimed by the end-user of the product.
 - 1. If a printing service is provided by a state agency, paper purchases should be applied to the customer agency. If doubt exists as to which agency should count the purchase, consider whether the customer agency has a choice about which printer or copy center to go to.
 - 2. Paper purchases for materials that are printed by one agency but used or distributed by other agencies should be applied to the agency that has contract administration responsibility.



Legal Authority

Wis. Stats. s. 16.70 (11), (12), (13); 16.71;
16.72(2)(e), (f); 16.75(8)(am), (bm), (9); s. 287.05(12)
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REQUEST FOR PURCHASING AUTHORITY (RPA) POLICY AND PROCEDURE		1 of 6

SCOPE: The scope of this policy is to establish authority and procedure for the Request for Purchasing Authority (RPA) requisition method and define the circumstances under which RPAs are processed or amended.

POLICY: Agencies initiate procurement activities by means of requisition processes established by the State Bureau of Procurement.

An RPA is required and will be submitted to the Bureau for the following procurements at dollar thresholds determined by applicable law. See PRO-101, Procurement Definitions and Thresholds for threshold information:

- Sole source and general waivers; see PRO-501, Waiver of Bidding Process.
- Motor vehicle purchases, regardless of dollar amount; see PRO-506, Procurement and Leasing of Motor Vehicles.
- Legal service procurements, regardless of dollar amount; see PRO-511, Legal Services.
- Collective purchasing; see PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.

To determine if a request is necessary, the agency will use the estimated dollar amount of the initial contract length including renewal options.

Agencies must ensure that the state standard terms and conditions, as published by the Department, are incorporated into all contracts resulting from approved RPAs. See PRO-404, Standard Terms and Conditions.

- PROCEDURE:**
- I. Required Form and Systems
 - A. The official system of record for the submittal and approval processing of RPAs is the Request for Purchasing Authority website, <https://rpa.wi.gov>.



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
 Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
 Agencies Affected: All, unless otherwise noted

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- B. Form, number, content, and disposition of an RPA is established by the Bureau.
- C. The agency will include the signature of the agency head, deputy, chancellor, vice chancellor, or authorized designee on the RPA.

II. Submittal and Required Components

- A. Delegated agencies and agencies not consolidated under Consolidated Agency Purchasing Services (CAPS) will submit an RPA with attachments required by form DOA-3046 to the Bureau for approval.

CAPS agencies will submit their materials to CAPS staff who will in turn submit them to the Bureau.

- B. Complete data is essential to the processing of the RPA. In addition to the forms required for RPAs, the agency will include:
 1. A comprehensive list of applicable commodity codes
 2. Total dollar authority required for the entire length of the contract including renewal options. For multiple-year contracts, the agency will break down the total dollar amount by each year. The agency will justify any proposed length of contract which does not align with PRO-206, Length of Contracts.

General waivers cannot exceed 12 months at a time.



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
Agencies Affected: All, unless otherwise noted

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3. Funding source(s) and a percentage allocation by type of funds is sufficient (e.g., GPR=50% and PR-O=50%). The following is a listing of funding sources:
 - GPR, General Purpose Revenue
 - PR-O, Program Revenue Other
 - PR-S, Program Revenue Service
 - PR-F, Program Revenue Federal
 - Seg-O, Segregated Revenue Other
 - Seg-L, Segregated Revenue Local
 - Seg-S, Segregated Revenue Service
 - Seg-F, Segregated Revenue Federal

4. For transactions that are recurring, the agency will include the previous year's:
 - Total expenditure (with justification for any increase in this year's request)
 - Case number
 - Breakdown of the total dollar amount by vendor (for multiple-vendor contracts)
 - RPA number

5. Justification, containing sufficient detail, when a waiver of sealed bidding is requested.

6. Where substantial time pressure exists beyond the agency's control, justification for expedited processing in urgent situations (i.e. "RUSH" request). This does not include administrative or processing delays in submitting the necessary documents for purchasing approval.



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
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III. Numbering and Coding Standards

- A. Delegated agencies and agencies not consolidated under Consolidated Agency Purchasing Services (CAPS) maintain a register for the monitoring of transmittal and receipt records. CAPS maintains the register for its agencies.

RPA numbers are established as follows:

1. An assigned two-character alpha code is used as the prefix to each RPA number.
2. The fiscal year code follows the prefix. Fiscal year codes are:

FY 1 = A	FY 6 = F
FY 2 = B	FY 7 = G
FY 3 = C	FY 8 = H
FY 4 = D	FY 9 = I
FY 5 = E	FY 0 = J

3. A consecutive four-digit number follows the fiscal year code.
4. An example of an RPA number is ADA0001 (prefix "AD", plus fiscal year "A", plus number "0001").

- B. For RPA amendments, the agency will use the original RPA number and add an alpha character that corresponds to the number of amendments. For example, amendment 1 to RPA number ADA0001 is "ADA0001A".

IV. Analysis and Approval Process



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
Agencies Affected: All, unless otherwise noted

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- A. In waiving bids, the Bureau uses background information supplied by the agency in making decisions and documenting any request to the governor for approval of the waiver.
- B. When a complete submission is received, the Bureau either approves or retains the submission and sends a communication to the agency with the reason(s) for denial.
- C. Upon approval, the Bureau issues a contract number. The agency has one year from the approval date to enter into the contract.
- D. During the approval process, waivers may be modified by those conditions or restrictions the governor or the Bureau deems appropriate.
- E. No procurement action may be taken prior to receipt of an RPA contract number by the agency requesting authority.

V. New RPAs and Amendments

The agency is responsible for maintaining records to ensure that the dollar amount and time frame of approved waivers are not exceeded. New RPAs and amendments are processed as follows:

- A. The agency will submit an RPA for requests to increase the total dollar amount, and/or to extend the contract length originally approved, for the transactions covered by this policy except for approved collective purchases.

An amendment will not be approved for substantial change in scope or intent of the original RPA. For changes of this type, a new request will be initiated.



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
Agencies Affected: All, unless otherwise noted

Authorized:

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- B. Amendments to RPAs will be submitted using the same process used for the original RPA.
- C. The agency does not need Bureau approval for increases in yearly cost estimates, provided that the original total amount is not exceeded.

Exercising contract renewal options, covered under an RPA, does not require additional approval. However, renewals can only be exercised if there are provisions for renewal in the original contract.

REFERENCE: DOA-3046: Request for Purchasing Authority (RPA)



Legal Authority

Wis. Stats. s. 16.72(4)(a); 16.75(1)(a); 16.75(1)(c); 16.75(3)
 Admin Code Ch. 5.04; 7.10; 8.05; 8.06; 10.04; 10.07; 10.09
 Agencies Affected: All, unless otherwise noted

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300-Series: Competitive Solicitations

This section of the Manual covers the major methods of competitive sourcing in Wisconsin, as well as official procedure for managing competitive procurement awards.

PRO-301 Competitive Procurement Policy

PRO-302 Best Judgment Purchasing

PRO-303 Simplified Bidding

PRO-304 Bidding Policy and Procedure, Official Sealed Bid

PRO-305 Basis for Bid Awards

PRO-306 Competitive Negotiation (Request for Proposal)

PRO-307 Evaluation Committee (Request for Proposal)

PRO-308 Basis of Award for Competitive Negotiation (Request for Proposal)

PRO-309 Notice of Award for Competitive Solicitations

PRO-310 Procurement of Signage

PRO-311 Reverse Auction



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PRO-301

Section	Effective	Replaces
COMPETITIVE SOLICITATIONS	9/16/19	PRO-C-1 (1-1-82)
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COMPETITIVE PROCUREMENT POLICY		1 of 2

SCOPE: The purpose of this policy is to establish authority and responsibility for achieving competition in the state’s procurement process.

POLICY: The competitive bidding process is the preferred method for selecting suppliers and will be used in every case unless it is determined, and justified, that competitive bidding is not practical or in the state’s best interests.

The State Bureau of Procurement has the responsibility to promote maximum competition in meeting state procurement needs, develop procedures for competitive solicitations and the use of alternative means of procurement.

Agencies with delegated authority to perform purchasing functions are responsible for implementing competitive procurement procedures.

Prior to considering the appropriate competitive method as prescribed herein, agencies will also determine if the nature of the purchase meets the criteria of a non-procurement transaction per PRO-504, Grants and Other Non-Procurement Transactions.

- PROCEDURE:**
- I. Competitive Sourcing Considerations
 - A. Specifications will be written to foster competitive bidding and permit selection of the lowest responsible bidder. See PRO-202, Specifications and Standards, and PRO-305, Basis for Bid Awards.
 - B. Competitive bidding processes are determined by the total value anticipated for a purchase. See PRO-101, Procurement Definitions; PRO-302, Best Judgment Purchasing; PRO-303, Simplified Bidding; and PRO-304, Bidding Policy and Procedure, Official Sealed Bid.



Legal Authority

Wis. Stats. 16.001(1); 16.71(1); 16.72(4); 16.73(4);
 16.75(1)(a); 16.75(2)(a); 16.75(2m); 16.75(6)(c)
 Wis. Adm. Code Chapter Adm 7, 8, 10.06
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- C. During the development process, if the procuring agency determines that the specifications will be best developed towards the use of the competitive negotiation (request for proposal (RFP)) process, it will request authority from the Bureau to conduct an RFP. See PRO-306, Competitive Negotiation (Request for Proposal).
- D. If the procuring agency identifies a competitively bid contract by another allowable entity, it will request authority from the Bureau to use such contract. See PRO-210, Request for Purchasing Authority (RPA) and PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.
- E. Some procurements do not lend themselves to competitive solicitations. In these cases, decisions to waive bidding will be based on established policy and procedure. See PRO-501, Waiver of Bidding Process.



Legal Authority

Wis. Stats. 16.001(1); 16.71(1); 16.72(4); 16.73(4);
 16.75(1)(a); 16.75(2)(a); 16.75(2m); 16.75(6)(c)
 Wis. Adm. Code Chapter Adm 7, 8, 10.06
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PRO-302

Section	Effective	Replaces
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BEST JUDGMENT PURCHASING	1 of 1	

SCOPE: The scope of this policy is to establish authority and procedure for best judgment purchasing activity.

POLICY: Best judgment purchasing is a method of procurement used when the estimated cost is less than the minimum of the simplified bidding threshold using the total value anticipated for the purchase, and when the need cannot otherwise be met on a mandatory contract. See PRO-101, Procurement Definitions and Thresholds and PRO-402, Statewide Contracts: Standards and Utilization.

Agencies will use all reasonable efforts to solicit small businesses, veteran-owned businesses, supplier-diverse businesses and work centers, and will report such transactions with supplier-diverse businesses as required by PRO-606, Supplier Diversity Policy and Reporting.

Best judgment does not apply to purchases of printing. See PRO-505, Printing Procurement Policy and Procedure.

- PROCEDURE:**
- I. Selection and Recordkeeping
 - A. In selecting the supplier, factors include but are not limited to: delivery point location, quality of articles to be supplied, price, conformity with specifications, purpose for which articles are required, and delivery date.
 - B. The agency will document the receipts and details to support the purchase. See PRO-105, Procurement Record Retention and Access.
 - C. The agency is responsible for ensuring purchases do not exceed allowable thresholds and serial contracting is not present. See PRO-107, Serial Contracting.



Legal Authority

Wis. Stats. 16.75(1)(c)
Wis. Adm. Code Chapter 8.01
Agencies Affected: All, unless otherwise noted

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Number
PRO-303

Section	Effective	Replaces
COMPETITIVE SOLICITATIONS	9/16/19	PRO-C-8 (11-5-13)
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SIMPLIFIED BIDDING	1 of 2	

SCOPE: The purpose of this policy is to establish authority and procedure for simplified bidding.

POLICY: Simplified bidding is a method of procurement used when the estimated cost of a transaction is less than the minimum of the official sealed bidding threshold, but more than the best judgment threshold, using the total value anticipated for the purchase, and when the need cannot otherwise be met on a mandatory contract. See PRO-101, Procurement Definitions and Thresholds and PRO-402, Statewide Contracts: Standards and Utilization.

Agencies will use all reasonable efforts to maximize competition in the solicitation and award of simplified bids, including but not limited to the use of existing systems and bidders lists. See PRO-103, Procurement Systems and Bidders Lists.

Agencies will report such transactions with supplier-diverse businesses as required by PRO-606, Supplier Diversity Policy and Reporting.

Agencies will use all reasonable efforts to solicit small businesses, veteran-owned businesses, supplier-diverse businesses and work centers. The simplified bid process will not be used to restrict competition or to prevent qualified bidders from bidding on procurements.

- PROCEDURE:**
- I. Selection and Recordkeeping
 - A. Solicitations for simplified bids are conducted through notice to at least three appropriate bidders. Where the results of a simplified bid do not produce three bids, the agency will document its efforts to obtain bids from the minimum of three appropriate, qualified bidders.
 - B. Where quotes are solicited in various forms, the agency will document the receipt and details of such quotes to support the purchase. Agencies will use form DOA-3088, Simplified Bidding



Legal Authority

Wis. Stats. 16.75(1)(b), (c); 16.75(2m)(c); Ch. 35
Wis. Adm. Code Chapter Adm 8.01
Wis. Constitution, Article IV, Section 25
Agencies Affected: All, unless otherwise noted

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Record or its functional equivalent. See PRO-105, Procurement Record Retention and Access.

- C. The agency is responsible for ensuring that purchases do not exceed the allowable threshold or that serial contracting is not present. See PRO-107, Serial Contracting.

REFERENCE: DOA-3088, Simplified Bidding Record



Legal Authority

Wis. Stats. 16.75(1)(b), (c); 16.75(2m)(c); Ch. 35
Wis. Adm. Code Chapter Adm 8.01
Wis. Constitution, Article IV, Section 25
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Section	Effective	Replaces
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BIDDING POLICY AND PROCEDURE, OFFICIAL SEALED BID	1 of 7	

SCOPE: The purpose of this policy is to establish authority for official sealed bidding (commonly referred to as request for bids (RFB)), circumstances when official sealed bidding is used, and the procedures for solicitation, submission, and selection.

POLICY: The State Bureau of Procurement (Bureau) may solicit bids or may delegate responsibility to the purchasing agency. Agencies with such delegation have the authority to solicit official sealed bids without requesting additional approval from the Bureau to do so, unless otherwise required. See PRO-102, Delegation and PRO-201, Procurement Plans.

Competitive bidding is the preferred method for procuring materials, supplies, equipment and contractual services as outlined in PRO-301, Competitive Procurement Policy.

Official sealed bids must be constructed to permit the lowest responsible bid to be the principal basis of award per PRO-305, Basis for Bid Awards.

All RFBs will provide for consideration of bids from supplier-diverse businesses, and reporting requirements of contractors doing business with the same, in accordance with the requirements of PRO-606, Supplier Diversity Policy and Reporting.

Additional requirements unique to contractual services procurements will be followed as identified in PRO-204, Contractual Services Procurement.

- PROCEDURE:**
- I. Required Elements of an RFB
 - A. Provide potential bidders with a lead time for response which complies with, at least, the minimum number of days prescribed by PRO-601, Legal/Public Notice. Agencies will provide for lead times that meet their business needs and align with the complexity of the RFB.



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
 Wis. Adm. Code Chapter Adm 7.01-7.08, 8.02, 8.03, 8.04, 8.07, 10.15
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If appropriate, an extension of lead time will be given after amendment(s) are made by the agency.

- B. All specifications must comply with PRO-202, Specifications and Standards.
- C. Unless waived by the Bureau, all RFBs will contain all standard contractual terms and conditions as published by the Department of Administration. See PRO-404, Standard Terms and Conditions.
- D. All RFBs will contain special terms, conditions or specifications that are unique to the RFB being conducted. Special conditions or specifications include but are not limited to:
 - Pricing information
 - Delivery dates, methods and schedules
 - Product sample requirements
 - Method of bid and method of award
 - Method of ordering
 - Bidder qualifications
 - Rental and lease agreements
 - Bond and surety requirements as provided for in PRO-607
 - Form requirements
- E. The method of bid and method of award must match and be based on a quantifiable formulation derived using bid pricing. No RFB may include a stipulation that the method of award is solely based on the agency's best interest; any such statement must be coupled with a clear description of the quantifiable award basis (e.g. total cost, unit cost, etc.).



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
 Wis. Adm. Code Chapter Adm 7.01-7.08, 8.02, 8.03, 8.04, 8.07, 10.15
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Whenever such action is appropriate, life cycle cost estimates will be used as the basis for award, and established in accordance with PRO-208, Life Cycle Costing.

- F. For agencies using the RFB process to award contracts funded by approved federal grants or programs with additional or modified stipulations for the resulting contract as a condition of receiving funds, the agency will include those requirements and terms in the bidding documents.
- G. Where alternate bidding is allowed, the RFB will contain the provisions governing the acceptance of such. Each alternate bid is considered separately.
- H. All RFBs will prescribe the contract term resulting from the award, i.e. whether the RFB will result in a one-time purchase or a term contract including any provisions for renewal. Term contracts will be established in accordance with PRO-206, Length of Contracts and align with the terms of any applicable approvals obtained from the Bureau.
- I. Where the procuring agency intends to make the resulting contract available for use by other agencies, the RFB will contain provisions to allow for piggybacking and/or cooperative purchasing. Requirements for such arrangements are identified in PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.

II. Solicitation of Bids

- A. All official sealed bid opportunities will be posted on the system(s) required by the Department and be advertised according to the requirements in PRO-601, Legal/Public



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
 Wis. Adm. Code Chapter Adm 7.01-7.08, 8.02, 8.03, 8.04, 8.07, 10.15
 Agencies Affected: All, unless otherwise noted

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 State Bureau of Procurement



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Notice. By posting opportunities on required systems, procuring agencies are deemed to have provided access to the bidder community to such opportunities. See PRO-103 Procurement Systems and Bidders Lists.

- B. Procuring agencies will provide the requisite forms, information and instruction on how to submit a responsive bid. Procedural instruction in the RFB will identify how bids will be submitted (i.e. physical delivery, mailing, submittal using electronic systems and email options).

Complete RFB packages must be available to all bidders up to the specified due date and time.

III. Amendments to RFBs

- A. After a solicitation has been made public and the procuring agency determines the need for changes or clarifications, they must issue a written revision to the solicitation to all known recipients and posted in the same manner as II, A.
- B. The procuring agency may require the bidder to acknowledge receipt of the amendment(s) in the bid response.

IV. Withdrawal or Modification by Bidders

- A. Any bidder may withdraw, resubmit or modify a bid at any time prior to the bid opening. If the bidder requests to withdraw prior to the bid opening, the purchasing office simply considers that it did not receive that bid, and such bid(s) will not be reflected in the final abstract record.



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
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V. Submission of Bids

- A. The bidder submits a written bid, using the forms and in the format provided for by the state.
- B. The procuring agency keeps all bids secure from access until the time of opening.
- C. If the bid arrives prior to the due date and time, the procuring agency documents the accurate date and time of receipt.
- D. If the bid arrives after the due date and time, the procuring agency documents the date and time of receipt and retains it in the bid file unopened or returns it unopened at the request and expense of the bidder. The bid cannot be accepted, but a record is kept in the bid file of its late receipt and its disposition.
- E. In fairness to all bidders, submission times will be strictly adhered to, to the minute.
- F. Receipt of a bid by the state mail system does not constitute receipt of a bid by the procuring agency. See PRO-103, Procurement Systems and Bidders Lists for information on electronic bidding policy and procedure.

VI. Public Opening and Reading of Bids

- A. Bid openings are public actions and are open to attendance by interested bidders and the public. No activity on the part of bidders at an opening of a bid, other than attendance and note taking, is permitted. Any attempt to qualify or change any bid



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
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by any bidder in attendance may result in the rejection of that bidder's bid.

- B. The purchasing agent who invited the submission of bids, or their designee, opens and orally reads the bids as soon as practicable after the date and hour shown on the RFB and at the place designated.

Unless the procedures of section VI, C are exercised, the names of the bidders, the terms, and the prices bid will be announced at the bid opening. Bids need not be analyzed, or indication given as to successful award at the opening.

- C. When the length of a bid makes it impractical to read aloud, as determined by the purchasing agent, only the names of bidders are announced at the opening.

VII. Analysis and Abstracting

- A. Generally, no bidder may modify a bid after the opening. However, in its analysis of timely bids, the procuring agency reserves the right to clarify, through a written request to a bidder, components of a bid as follows:

1. Bidders may correct minor omissions or errors.
2. Modifications in form but not in substance are permitted.
3. It is reasonable to permit a bidder to correct errors of addition, multiplication, miscalculations or arithmetic mistakes.



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
Wis. Adm. Code Chapter Adm 7.01-7.08, 8.02, 8.03, 8.04, 8.07, 10.15
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- 4. In the case of substantial errors, the bidder may withdraw the bid after the opening. In the case of a bid that is withdrawn after the opening, the bid will be documented on the final abstract.

No change is allowed that would impair the interests of the state or would be inequitable to other bidders.

- B. An abstract is prepared which includes who bid, what was bid, and who was the successful bidder and why.
- C. For official sealed bids for services, a notice of intent to contract is issued. For bids for commodities, a notice of award is issued. See PRO-309, Notice of Award for Competitive Solicitations.
- D. To provide for analysis and abstracting, bid records and other information pertinent to the bids may not be available for public inspection before the notice of intent to award is issued or, in the case of requests for bids for commodities, before the contract is awarded.

VIII. Recordkeeping

- A. Competitive bidding requires documentation of the procurement process and the results of the action taken. A complete procurement file for official sealed bids will be created and retained in accordance with PRO-105, Procurement Record Retention and Access.



Legal Authority

Wis. Stats. 16.72(2)(a)(b); (4)(a); 16.75(1)(a)(b)(c); 16.75(1m); (4); (5); 16.75(3m) (b)(2)(3); 16.754; 19.85(1)(e); 985.01(1), (2), (3); 985.04(1); 985.07(2)
 Wis. Adm. Code Chapter Adm 7.01-7.08, 8.02, 8.03, 8.04, 8.07, 10.15
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SCOPE: The purpose of this policy is to establish the authority, basis and procedures for determining official sealed and simplified bid awards under various circumstances.

POLICY: Awarding contracts and rejecting bids are public actions and the procuring agencies performing these functions are guided by the course of action that best promotes the public interest.

It is the duty and authority of the procuring agency to exercise good judgment, due diligence, and to honestly and fairly determine the lowest responsible bidder(s).

The lowest responsible bidder is the person or firm submitting the competitive bid with the lowest price that meets the specifications of the solicitation. Bid awards will be made on this basis except as provided herein.

Wherever such action is appropriate, the procuring agency will award contracts for materials, supplies or equipment based on life cycle cost estimates. See PRO-208, Life Cycle Costing.

Any and all bids may be rejected. When the award is made to someone other than the lowest bidder, and/or when any bid is rejected, a complete written record of the full reason(s) for such actions will be created and retained in the bid file. See PRO-105, Procurement Record Retention and Access.

Tied bids exist when the total costs of two or more responses to a bid are identical. Procuring agencies will follow the procedures outlined herein to break a bid tie. If an indication of price fixing exists in any tied bid situation, agencies will consult PRO-602, Non-Collusion and Disclosure of Conflicts of Interest and may consult the State Bureau of Procurement (Bureau), before proceeding with an award.

PROCEDURE: I. Determination of Lowest Responsible Bidder



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
16.754(2)
Wis. Adm. Code Chapter Adm 6.01; 8.03
Agencies Affected: All, unless otherwise noted

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A. All the following factors may be considered, if contemplated by the solicitation:

- 1) Financial ability to provide the services required or to complete the contract;
- 2) Skill, judgment, experience and resources to complete the contract;
- 3) Necessary facilities, staff, personnel, and equipment to complete the contract;
- 4) Demonstrated ability to satisfactorily perform the work or provide the materials in a prompt, conscientious manner;
- 5) Demonstrated ability to comply in situations where the award is contingent on special considerations subject to the nature of the services or contract required; and
- 6) Any other factor determined to be relevant in assessing the bidder's ability to supply as required.

B. The procuring agency will review bids received by the due date and time of the solicitation to ensure it is only accepting bids submitted in accordance with the specifications of the solicitation.

A responsive bid is one that complies with all required specifications, containing no material omissions that would fundamentally impact the bid's completeness. The procuring agency may make certain clarifications as allowed by applicable policy to create a fair and equitable comparison of bids received.



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
16.754(2)
Wis. Adm. Code Chapter Adm 6.01; 8.03
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- C. All responsive, responsible bidders will then have bid pricing reviewed. The prescribed method of award will be followed. In making awards, low bid is determined by the price offered on the quantity actually being contracted for.
- D. If no bidder meets every required specification, the procuring agency may continue its review of bids that most closely meet the remaining required specifications.
- E. Where applicable, if a certified minority business enterprise or disabled veteran-owned business has submitted a qualified responsible bid that is no more than 5% higher than the apparent lowest responsible bid, the award may be made to such bidder in accordance with PRO-606, Supplier Diversity Policy and Reporting.
- F. If the apparent low bidder is not a Wisconsin business, the procuring agency will ensure the award should not otherwise be impacted by reciprocity law and policy as prescribed in PRO-603, Reciprocity Law and Handling State Preferences.
- G. The basis for awarding contracts to certified work centers is defined in PRO-509, Sourcing with Work Centers.
- H. When the lowest responsible bid price is deemed to be higher than a fair price, a lower price may be negotiated. Bid pricing and additional provisions or modifications may be negotiated only with the lowest responsible bidder(s) so long as such changes would not have provided a significant competitive advantage had they been made at the time the bids were taken.

II. Single Bids



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
16.754(2)
Wis. Adm. Code Chapter Adm 6.01; 8.03
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When bids have been solicited and only one bid is received, the procuring agency:

- A. Determines if the probability of receiving more than one bid existed at the time of solicitation; if so,
- B. Determines whether restrictive specifications or conditions caused the sole response, if not,
- C. Determines, based on cost comparisons or analysis, that the price bid is fair; if so,
- D. Establishes that re-solicitation will probably not elicit further bids, and,
- E. Makes the award based on the single bid.

If the office determines that a single bid was the result of restrictive specifications or conditions, the specifications or conditions will be re-written, and the bid resolicited. See PRO-202, Specifications and Standards.

III. Tied Bids

The following options for breaking tied bids will be followed in the order presented, as applicable to the bid in question:

- A. Cost totals can be carried out to two or more decimal points to break a tie.
- B. In determination of award, discounts for early payment and other factors contributing to greater economic benefit (e.g. volume discounts, etc.) may be factored into the basis for



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
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award. See PRO-407, Pricing and Discounts and PRO-409, Prompt Payment Policy.

- C. Award is made to the bidder whose materials are manufactured to the greatest extent in the United States as governed by PRO-605, American-made Materials Policy.

When making an award that involves a member country under the Government Procurement Agreement, the agency will follow PRO-604, World Trade Organization Government Procurement Agreement.

- D. If an award cannot be made using the provisions of III, A-C., the procuring agency will determine the award using a witnessed and documented drawing of names or its equivalent, such as a coin toss, after obtaining approval from the agency's chief purchasing official to do so. Documentation of the procedure used to break a bid tie must be retained in the procurement file.



Legal Authority

Wis. Stats. 16.72(4)(a); 16.75(1)(a); 16.75(1m); 16.75(3m);
16.754(2)
Wis. Adm. Code Chapter Adm 6.01; 8.03
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SCOPE: The purpose of this policy is to establish authority and procedures for the competitive negotiation (also referred to as Request for Proposal (RFP)).

POLICY: The RFP process is used to solicit proposals where an award cannot be made strictly on specifications or price and several firms are qualified to furnish the product or service. However, price is always a material consideration.

The State Bureau of Procurement may solicit proposals or may delegate responsibility to the purchasing agency. The agency requests approval to conduct RFPs using procurement plans. See PRO-201, Procurement Plans.

Request for proposals must be constructed to permit the method of award to be based on the most advantageous proposal as judged by an evaluation committee. See PRO-308, Basis of Award for Competitive Negotiation (RFP) and PRO-307, Evaluation Committee (RFP).

All RFPs will provide for consideration of proposals from supplier-diverse businesses, and reporting requirements of contractors doing business with the same, per PRO-606, Supplier Diversity Policy and Reporting.

Additional requirements unique to contractual services procurements will be followed as identified in PRO-204, Contractual Services Procurement.

The use of the RFP process is not allowed in the purchase of stationery or printing. See PRO-505, Printing Procurement Policy and Procedure.

- PROCEDURE:**
- I. Required RFP Elements
 - A. Provide potential proposers with a lead time for response which complies with, at least, the minimum number of days prescribed by PRO-601, Legal/Public Notice. Agencies will provide for lead times that meet their business needs and align



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
16.75(7); 19.85(1)(e)
Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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with the complexity of the RFP. If appropriate, an extension of lead time will be given after amendment(s) are made.

- B. An RFP is written in clear, concise, and measurable terms. All specifications which are not otherwise scored by an evaluation committee must comply with PRO-202, Specifications and Standards.
- C. Unless waived by the Bureau, all RFPs will contain standard contractual terms and conditions in accordance with PRO-404, Standard Terms and Conditions.
- D. All RFPs will contain the special terms, conditions or specifications that are unique to the RFP being conducted.
- E. Each RFP shall state the relative importance of price and other evaluation factors in award.
- F. For agencies using the competitive negotiation process to award contracts funded by approved federal grants or programs, the agency will incorporate those requirements and terms in the RFP documents.
- G. All RFPs will prescribe the contract term resulting from the award, i.e. whether the RFP will result in a one-time purchase or a term contract including any provisions for renewal. Term contracts will be established in accordance with PRO-206, Length of Contracts and align with the terms of any applicable approvals obtained from the Bureau.
- H. Where the procuring agency intends to make the resulting contract available to other entities, the RFP will contain provisions to allow for piggybacking and/or cooperative



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
16.75(7); 19.85(1)(e)
Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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purchasing. See PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.

- I. Prior to proposal due date, the procuring agency will construct a score sheet containing a detailed breakdown of the criteria to be used in evaluating the proposals. The score sheet format will reflect the requirements as stated in the RFP and contain the range of points available to score each element.
 - J. A list of evaluation team members and their titles will be created prior to posting the RFP. Identify which member or person advising the committee is trained in the RFP process.
- II. Solicitation of Proposals
- A. All RFPs will be posted on the system(s) required by the Department and be advertised according to the requirements of PRO-601, Legal/Public Notice. By posting opportunities on required systems, procuring agencies are deemed to have provided access to the proposer community to such opportunities. See PRO-103, Procurement Systems and Bidders Lists.
 - B. Procuring agencies will provide the requisite forms, information and instruction on how to submit a responsive proposal. Procedural instruction in the RFP will identify how proposals will be submitted (i.e. physical delivery, mailing, submittal using electronic systems and email options). Complete RFP packages must be available to all proposers up until the specified due date and time.
 - C. Procuring agencies will instruct proposers on how to submit cost and technical or functional elements of the proposal.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m); 16.75(7); 19.85(1)(e)
Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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III. RFP Amendments

- A. After an RFP has been posted, if the procuring agency determines the need for changes or clarifications, they must issue a written revision to the solicitation to all known recipients and posted in the same manner as II, A.
- B. The procuring agency may also, at its discretion, hold a proposer conference open to all potential proposers. A summary of all such meetings will be committed to writing, posted as an amendment using applicable systems, and retained in the procurement file.
- C. The procuring agency may require the proposer to acknowledge receipt of the amendment(s) in the proposal.

IV. Withdrawal or Modification to Proposals

- A. Any proposer may withdraw, resubmit or modify a proposal at any time prior to the proposal opening. If the proposer requests to withdraw prior to the proposal opening, the purchasing office considers that it did not receive the proposal, and such proposal(s) will not be reflected in the final abstract.
- B. No change is allowed that would impair the interests of the state or would be inequitable to other proposers.

V. Submission of Proposals

- A. Proposers submit a written proposal, using the forms and in the format provided for by the state.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
 16.75(7); 19.85(1)(e)
 Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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- B. The procuring agency keeps all proposals secure from access until the time of opening and, following the opening, ensures that the evaluation committee maintains proposal security.
- C. If the proposal arrives prior to the due date and time, the procuring agency documents the date and time of receipt.
- D. If the proposal arrives after the due date and time, the procuring agency documents the date and time of receipt and retains it in the procurement file unopened or returns it unopened at the request and expense of the proposer. The proposal cannot be accepted, but a record is kept in the procurement file of its late receipt and its disposition.
- E. In fairness to all proposers, submission times will be strictly adhered to, to the minute. Receipt of a proposal by the state mail system does not constitute receipt of a proposal by the procuring agency.

VI. Opening Proposals

- A. Proposals are opened as soon as practicable after the time and date specified. RFP openings may be open to the public. The names of the proposers may be read aloud. Proposals will not be evaluated at this time, nor awards announced.
- B. Where a public opening is held, a summary of information disclosed at the RFP opening is made available to the public upon request as soon as practical after the opening unless competitive or bargaining reasons dictate that the information should not be made public at that time.

VII. Evaluation Process



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
 16.75(7); 19.85(1)(e)
 Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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- A. The procurement lead conducts a preliminary review of proposals received by the due date and time to ensure all required components are included and that accepted proposals meet all mandatory requirements, where applicable.
- B. Generally, no proposer may modify a proposal after the opening. However, the procuring agency reserves the right to clarify, through a written request to a proposer, components of a proposal to ensure the agency can validate the proposal's responsiveness to mandatory requirements.
- C. The procurement lead then distributes responsive proposals to the evaluation committee. See PRO-307, Evaluation Committee.
- D. The evaluation committee reviews the proposals and scores each according to the criteria established in the RFP. The committee then meets to discuss their individual evaluations of each proposal; and to determine any need for interviews, on-site reviews, etc., of the top group of proposers.
- E. For purposes of clarification, the procuring agency may discuss the requirements of the offer with the proposer and permit a proposer to revise his or her proposal to ensure responsiveness to those requirements. Discussions will be in writing or oral discussions will be summarized in writing.
- F. For cost proposals, the RFP manager may clarify as follows:
 - 1. Proposers may correct minor omissions or errors. It is reasonable to permit correcting miscalculations, errors of addition, multiplication or arithmetic mistakes.
 - 2. Modifications in form but not substance are permitted.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
 16.75(7); 19.85(1)(e)
 Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
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- 3. In the case of substantial errors, the proposer may withdraw the proposal after the opening. In the case of a proposal that is withdrawn after the opening, the proposal will be documented on the final abstract.
- G. No change is allowed that would impair the interests of the state or would be inequitable to other proposers.
- H. Unless otherwise determined by the procuring agency, cost proposal information may not be shared with the evaluation committee until after technical/functional scoring is complete.
- I. The evaluation committee may determine which proposals are reasonably apt to be considered for award. Documentation is required for proposals eliminated from further evaluation.
- J. Further communication with remaining proposers may be conducted, in an equitable manner, to provide an opportunity to discuss their proposals. The agency may permit revisions to proposal content and to cost by proposers on the condition that the revisions do not alter the scope or content of the original solicitation to a degree that will affect the justification that was used to eliminate other proposers from evaluation.
- J. Where the RFP provided for the possibility of a best and final offer (BAFO) to be conducted, the procurement lead may engage the proposer(s) reasonably apt to be considered for award to participate in the BAFO process.
- K. In the evaluation, discussion, negotiation, and selection process, the agency will not disclose any information from one proposer to another.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
 16.75(7); 19.85(1)(e)
 Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
 Agencies Affected: All, unless otherwise noted

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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VIII. Award and Abstracting

- A. Using the DOA-3835: Evaluation Committee Report, the agency will document the reason for the award and place the report, as well as supporting documentation, in the procurement file.
- B. An abstract is prepared which includes who proposed, a summary of technical and cost scores for accepted proposals, and who was the successful proposer and why.
- C. For RFPs for services, a notice of intent to award is issued. For RFPs for commodities, a notice of award is issued.
- D. To provide for analysis and abstracting, proposal records and other RFP records may not be available for public inspection before the notice(s) of intent to award is issued or, in the case of RFPs for commodities, before the contract is awarded.
- E. The specifications listed in the RFP will correspond to the specifications that appear in the resulting contract. Any major deviation from original specifications in the resulting contract is grounds for withdrawal of procurement authorization.

IX. Recordkeeping

Agencies will ensure a complete RFP procurement record is created and retained in accordance with form DOA-3840, Procurement Recordkeeping Checklist, the applicable general records schedule and PRO-105, Procurement Record Retention and Access.

REFERENCE: DOA-3835: Evaluation Committee Report
DOA-3840: Procurement Recordkeeping Checklist



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a); 16.75(1)(a); 16.75(2m);
16.75(7); 19.85(1)(e)
Wis. Adm. Code Chapter Adm 7.04; 7.06; 7.07; 7.09; 8.04; 8.07; 10.08
Agencies Affected: All, unless otherwise noted

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SCOPE: The purpose of this policy is to establish the duties of the procurement lead, membership and duties of an evaluation committee, the use of subject matter experts, prescribe official procedure for issue resolution, and the required composition of evaluation committee reports.

POLICY: Before a request for proposal (RFP) is distributed to prospective contractors, the procuring agency will establish an evaluation committee in accordance with applicable rules.

No person will serve on an evaluation committee where the action of that committee might benefit that person, or a member of that person's immediate family, or any organization or business with which that person is associated.

Pursuant to Wisconsin 2006 Executive Order 137 “the evaluation committee shall exclude any employee of the Office of the Governor, and any unclassified Agency Head, Commissioner, Deputy Agency Head, Executive Assistant or Division Administrator.” For UW System Administration and campuses appointees are defined as UW System President and Vice President and Chancellor, Vice Chancellor and Provost positions.

When an RFP includes highly technical or specialized components, the evaluation committee may convene a subgroup of subject matter experts who serve in an advisory capacity and are non-scoring members of the evaluation committee.

Evaluation committee activities will be summarized in an evaluation committee report, made part of the official procurement file. The report will be composed using DOA-3835, Evaluation Committee Report.

PROCEDURE: I. Evaluation Committee Membership



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
 2006 Executive Order 137
 Agencies Affected: All, unless otherwise noted

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- A. Each committee will consist of at least three or more scoring members, depending on the complexity and scope of the commodities or services being procured.
- B. Each member of the evaluation committee will possess specific knowledge, skills or unique perspective essential to the RFP evaluation.
- C. Any agency requesting participation by an appointee on an evaluation committee must request permission from the State Bureau of Procurement prior to convening the committee.
- D. The procuring agency will use reasonable efforts to establish an evaluation committee that represents perspectives from outside the primary program. This may include evaluation committee member(s), when appropriate or available, from outside the agency conducting the procurement or from outside state government.
- E. The procurement lead will document the efforts made to secure participation of member(s) from outside the procuring agency.
- F. If necessary, at any time the procurement lead may designate alternate evaluation committee members. The procurement lead will document the reasons for change.

II. Procurement Lead Duties

- A. Each committee will have a procurement lead trained in the Request for Proposal course offered by the Bureau. This person will:



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
 2006 Executive Order 137
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1. *Not* be an evaluator or score the general/technical portion of the proposals. Procurement leads do score the cost proposal of an RFP.
2. Provide guidance and instruction to the evaluation committee on the RFP evaluation process, and all applicable procurement statutes, rules and policies.
3. Ensure that evaluation committee members understand and sign the Assurance of Compliance with Procedures and Ethical Guidelines for Proposal Evaluation (form DOA-3780).

Agencies may have additional guidelines for evaluation committee members or subject matter experts which may be more restrictive than the minimum requirements outlined on DOA-3780.

4. Act as committee-leader and will be responsible for coordinating and facilitating all evaluation activities of the committee.
5. Be the sole contact for vendors for the duration of the procurement process. Where necessary, the procurement lead may designate another individual as an authorized contact. Written summary of all contacts will be provided to the procurement lead and retained in the procurement file.
6. Relay all pertinent communications to all evaluators.
7. Responsible for the preparation of the official abstract of the evaluation committee scoring.



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
 2006 Executive Order 137
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8. Prepare the final evaluation committee report for approval and signature by evaluation committee members.
9. Keep accurate records and maintain the official procurement file per PRO-105, Procurement Record Retention and Access.

III. Duties of Evaluation Committee

Committee members will perform all duties and follow instructions as required in form DOA-3721, Evaluation Committee Checklist and prescribed by the procurement lead, specifically:

- A. Sign form DOA-3780 before proposal evaluation begins.
- B. Review all responsive proposals consistent with the evaluation criteria included in the RFP.
- C. Participate in events that affect the evaluation process.
- D. Keep all information obtained from any proposer confidential.
- E. Review and sign the evaluation committee report.
- F. Following a notice of intent to award, refer all requests for information or records related to an RFP to the procurement lead, who will work with their agency records custodian in accordance with internal agency policy.

IV. Use of Subject Matter Experts



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
2006 Executive Order 137
Agencies Affected: All, unless otherwise noted

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- A. Subject matter or technical experts are non-scoring ad-hoc groups who serve as technical advisors to the evaluation committee. Subject matter or technical experts may be convened as needed and upon request of the evaluation committee.
- B. All subject matter or technical experts will be required to sign form DOA-3780 prior to participation.
- V. Communication Protocol During Evaluations
 - A. Communication among committee members, including the procurement lead, is generally limited to scheduled committee meetings, group written communication or conference calls.
 - B. The integrity of the evaluation and therefore the procurement is based on full disclosure of procurement and evaluation information shared equally among all members. Occasionally, individual committee members may have questions or concerns regarding the procurement that occur outside of scheduled meetings. Evaluation committee member questions or clarifications must be forwarded to the procurement lead who will ensure that all members are informed.
- VI. Evaluation Committee Issue Resolution

If a committee member has serious concerns with any part of the evaluation process, the following procedures will be followed:

- A. Internal resolution process
 - 1. The preferred method to resolve issues is to bring the concern to the entire evaluation committee for discussion



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
2006 Executive Order 137
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and resolution either directly by the complainant or through the procurement lead.

2. The specific concern should be clearly presented to the procurement lead who will conduct the evaluation committee discussion. The procurement lead must provide timely notice of the complaint to the agency chief purchasing official.
3. The procuring agency's special designated agent may participate in the internal resolution process.
4. The committee discussion will allow other evaluation committee members to share their perspectives and have input on what they observed as well. This process also provides an opportunity for the individual whose behavior is at issue to clarify the intent of the words or actions that are at issue.
5. Maintaining the integrity of the evaluation process is critical. Therefore, a challenge to the integrity of any participant or event in the evaluation process must be taken seriously by the committee and addressed accordingly.

B. External resolution process

1. If the issue is not resolved, any participant in the internal resolution process may contact the State Compliance Officer or authorized designee. A written complaint may be mailed to the following address: Department of Administration, Division of Legal Services, P.O. Box 7864, Madison, WI 53707-7864 or call the compliance officer or authorized designee at 866-203-8989.



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
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2. The written or oral complaint will clearly describe the issue and the result of the internal resolution process. The compliance officer or authorized designee will log the complaint and conduct a follow up investigation to get the details of the complaint, including interviewing the complainant and evaluation committee members as necessary. The procurement process will be suspended while the investigation is in process. The compliance officer or authorized designee will summarize the results of the investigation in writing and will make a recommendation to resolve the issue to the procuring agency's special designated agent. A copy of the report will go to the director of the Bureau.
3. In order for a meaningful investigation to occur, the complainant will need to identify him/herself to the compliance officer or authorized designee.
4. The compliance officer or authorized designee will maintain confidentiality of the complainant's identity throughout the investigation, to the extent allowed by law and dependent upon the circumstances of the investigation.
5. Upon completion of the investigation, the report including the complainant's identity may lose its confidential status.

By bringing a formal complaint the complainant may enjoy the protections of the State's Whistleblower law (s. 230.80-230.83). The compliance officer or authorized designee will assist the complainant in obtaining Whistleblower status.

VII. Evaluation Committee Reports



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
 2006 Executive Order 137
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The purpose of the evaluation committee report is to concisely summarize the activity and recommendations of the evaluation committee process.

- A. The procurement lead or designee will draft the report using form DOA-3835: Evaluation Committee Report, on behalf of the evaluation committee.
- B. Evaluation committee members will review the report and recommend any changes.
- C. Evaluation committee members must then sign the evaluation committee report to confirm their agreement with its content and the award recommendation.
- D. Any evaluator who disagrees with the content of the report or the award recommendation must provide a written explanation for his/her objection.
- E. The report will be forwarded to the procuring agency head or designee prior to issuing an intent to award.

REFERENCE: Evaluation Committee Checklist form DOA-3721
 Assurance of Compliance with Procedures and Ethical Guidelines for Proposal Evaluation form DOA-3780
 Evaluation Committee Report form DOA-3835
 Instructions-Evaluation Committee Report form DOA-3835I



Legal Authority

Wis. Stats. 16.705(2); 230.80-230.83
 Wis. Adm. Code Chapter Adm 7.09(2); 10.08; ER-MRS 24
 2006 Executive Order 137
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COMPETITIVE SOLICITATIONS	9/16/19	PRO-C-39, D-27 Various Dates
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BASIS OF AWARD FOR COMPETITIVE NEGOTIATION (RFP)		1 of 5

SCOPE: The scope of this policy is to establish a basis for awarding contracts using the competitive negotiation (Request for Proposal (RFP)) process, and the use of the best and final offer (BAFO) option in determining such awards.

POLICY: It is the responsibility of the procuring agency to ensure that only those individuals with proper training in the request for proposal process be allowed to manage such functions, and that they exercise good judgment, due diligence, and to honestly and fairly manage the evaluation process.

Request for proposal awards shall be based on the evaluation committee recommendation. See PRO-307, Evaluation Committee (RFP).

The evaluation committee, and/or the procurement lead, may elect to conduct a best and final offer (BAFO) process to determine awards. The BAFO process represents an optional step in the selection process for an RFP and is not part of the contract negotiation process.

The considerations and scoring used to determine awards must correlate with the method of award as described by the procuring agency in the RFP.

- PROCEDURE:**
- I. Award Considerations
 - A. The evaluation committee will use predetermined scoring methods to score technical and functional proposal elements.
 - B. The committee may also consider RFP meetings, conferences, oral presentations, discussions, revisions, best and final offers, and reference check results into account in its scoring, consistent with the terms of the RFP. The procurement lead may seek clarification and permit revisions from any or all proposers.
 - C. Awards are based on the highest aggregate total of cost and technical or functional scores.



Legal Authority

Wis. Stats. 16.705(2);
 Wis. Adm. Code Chapter Adm 10.08(1)(f), (5)
 Agencies Affected: All, unless otherwise noted

Authorized:
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II. Use of Best and Final Offers

- A. Where the evaluation committee and/or procurement lead determines which proposers are reasonably apt to be considered for award, the procuring agency may elect to use a best and final offer process.
- B. The purpose of a BAFO is to further determine the most advantageous proposal. Reasons to conduct a BAFO may include but are not limited to:
 - 1. No single response addresses all the technical or functional requirements.
 - 2. Cost proposal(s) require improvement or clarification.
 - 3. The scores of two or more proposers are very close after the evaluation process.
- C. The original RFP document must contain language indicating the BAFO process *may* be used.
- D. Proposer(s) deemed not likely to be awarded may be dropped from consideration and noted in the record.

III. Content and Structure of BAFO Process

- A. In order to develop content of the BAFO request, the procurement lead may collect questions about the proposals from the evaluation committee.
- B. BAFO(s) must contain specific information on what is being requested; however, the integrity of the original scope of the RFP must be maintained.



Legal Authority

Wis. Stats. 16.705(2);
Wis. Adm. Code Chapter Adm 10.08(1)(f), (5)
Agencies Affected: All, unless otherwise noted

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- C. The procurement lead will send out the request for BAFO(s) in writing stating the areas to be covered and the date and time in which the BAFO(s) must be returned.
- D. BAFO request(s) must contain information on how the offers will be evaluated and the process used to determine the successful proposer(s).
- E. All communication to and from proposers regarding the BAFO will be coordinated by the procurement lead.
- F. All responses to a BAFO must be returned to the procurement lead. BAFOs submitted after the deadline may not be accepted. Only the original and that proposer's most recently submitted response may be used.
- G. Proposers who elect not to submit a BAFO response will be scored on their original proposal and any subsequent clarifications requested by the procuring agency.
- H. During the BAFO process, the procuring agency may not identify to proposers either the current rank of any of the proposers or the lowest costs currently proposed.
- I. Proposer(s) may be requested to make an oral presentation regarding their BAFO. The evaluation committee and/or procurement lead will have full discretion to accept or reject any information submitted in a BAFO.
- J. The procurement lead may elect to issue a BAFO for cost only to the proposer(s) reasonably apt to be considered for award by the evaluation committee.

IV. BAFO Scoring



Legal Authority

Wis. Stats. 16.705(2);
Wis. Adm. Code Chapter Adm 10.08(1)(f), (5)
Agencies Affected: All, unless otherwise noted

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- A. Evaluation score sheets for the BAFOs will be developed, as needed, and provided to the evaluation committee members by the procurement lead.
 - B. Evaluation committee members score or rescore the technical portion of the BAFO using the format provided by the procurement lead.
 - C. All official scoring worksheets must be retained for inclusion in the procurement file.
 - D. Cost proposals (if requested) are rescored by the procurement lead or designee. Only the revised cost proposals from the proposer(s) asked to participate in the BAFO process will be used to calculate the cost proposal score.
- V. Award Modifications
- A. Awards shall be based on the evaluation committee recommendation unless, after review by the State Bureau of Procurement, a change in an award is approved because:
 1. Mathematical errors were made in scoring proposals;
 2. An award is recommended to a proposer who should have been disqualified as not responsive to all mandatory requirements of the request for proposal (RFP);
 3. Evidence of collusion or fraud involving either the proposer or an evaluation committee member is found; or
 4. The evaluation committee fails to follow the evaluation criteria as set forth in the RFP.



Legal Authority

Wis. Stats. 16.705(2);
Wis. Adm. Code Chapter Adm 10.08(1)(f), (5)
Agencies Affected: All, unless otherwise noted

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5. Violations of Wis. Adm. Code Chapter Adm 10 or the statutes have occurred.



Legal Authority

Wis. Stats. 16.705(2);
Wis. Adm. Code Chapter Adm 10.08(1)(f), (5)
Agencies Affected: All, unless otherwise noted

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Section	Effective	Replaces
COMPETITIVE SOLICITATIONS	9/16/19	PRO-C-23, I-14 Various Dates
Title	Page	
NOTICE OF AWARD FOR COMPETITIVE SOLICITATIONS	1 of 2	

SCOPE: The purpose of this policy is to establish official procedure for notifying bidders of award activity on competitive solicitations.

POLICY: All responsive bids and proposals will be reviewed and given due consideration. When an agency has completed the review or evaluation process, it will record the results of the solicitation.

For official request for bids/proposals (RFB/RFPs), the agency will also issue a written notification of the award results.

Unsuccessful bidders need not be notified when awarding simplified bids.

In cases of award on a noncompetitive negotiation basis, there is no notice to unsuccessful bidders since, by definition, there are no other bidders. See PRO-601, Legal/Public Notice.

- PROCEDURE:**
- I. Notification of Award Results
 - A. Agencies will address a notice of bid/proposal award to the awarded bidder(s)/proposer(s) in writing. Award notification will be sent to all unsuccessful bidder(s)/proposer(s) as well.
 - B. Award notices will state that the notice itself is not a contractual commitment, and the agency reserves the right to negotiate terms, conditions or price, where applicable.
 - C. Where an agency determines a bid or proposal to be unresponsive to the requirements of the solicitation, the agency will retain a record of the reason for any bid/proposal rejection.
 - D. The procuring agency determines the distribution method of these notices, i.e. via email or mail.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a)
Wis. Adm. Code Chapter Adm 10.08(6); 10.15(1)
Agencies Affected: All, unless otherwise noted

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- II. Award of Contractual Services Procurements
 - A. When the RFB/RFP process is used to procure contractual services valued over the official bidding threshold, a notice of *intent to contract* is sent as described in section I, at least five (5) working days before the date of contract award.
 - B. Where the protest and appeals process applies, all notices of intent will be sent in accordance with PRO-204, Contractual Services Procurement.

- III. Requests for Bid/Proposal Records Access
 - A. When a bidder/proposer specifically requests records concerning an award, the awarding agency will follow PRO-105, Procurement Record Retention and Access.



Legal Authority

Wis. Stats. 16.705(2); 16.72(4)(a)
 Wis. Adm. Code Chapter Adm 10.08(6); 10.15(1)
 Agencies Affected: All, unless otherwise noted

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Section	Effective	Replaces
COMPETITIVE SOLICITATIONS	9/16/19	PIM 18-002 (5-1-18)
Title		Page
PROCUREMENT OF SIGNS, SIGNAGE		1 of 2

SCOPE: The purpose of this policy is to establish procurement requirements that are unique to signs and signage.

POLICY: Per s. 16.75(1)(b)(2), there is a competitive bidding threshold unique to signage purchases. See PRO-101, Procurement Definitions and Thresholds for the threshold and definition of signage. Signs are not state printing.

Best Judgment, Simplified Bidding

The signage bid threshold is lower than the best judgement threshold for all other goods and services. As such, agencies have the option to use best judgment or simplified bidding if the purchase does not exceed the signage bid threshold. Based on the selected method, all other requirements of either PRO-302, Best Judgment Purchasing or PRO-303, Simplified Bidding apply.

Official Sealed Bidding Required

The official sealed bid/Request for Bid (RFB) process is required for every procurement over the signage bid threshold. See PRO-304, Bidding Policy and Procedure, Official Sealed Bid. Agencies that anticipate making multiple signage purchases over the threshold over a given term (one year or more) will follow the procedures set forth in s. II below.

No Interagency Procurement Over Threshold

Statutory requirements related to Wisconsin correctional enterprises, s. 16.75(3t), does not apply to signage. See PRO-507, Procurement from Wisconsin Bureau of Correctional Enterprises (BCE) and s. III below.

- PROCEDURE:**
- I. Determining Signage Spend
 - A. The signage bid threshold applies to the total known amount the agency would spend on signage at the time the bid or purchase order is prepared. Signage spend cannot be split into



Legal Authority

Wis. Stats. 16.75(1)(b), (c); 16.75(3t); 16.75(6) (ag)
2017 Wisconsin Act 146
Agencies Affected: All, unless otherwise noted

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smaller increments to avoid the competitive process. See PRO-107, Serial Contracting.

- B. If signage of any value is an ancillary component of a larger solicitation for a good or service that is not a sign, the agency is not required to bid the signage separately and will follow the applicable procurement process for the primary good/service.

II. Term Contracts

- A. An agency may award an official sealed bid for signage to create a multi-year term contract under which multiple orders may be placed. See PRO-206, Length of Contracts.
- B. Any contracts exceeding one year will allow for multiple awards and contain a provision for competitive quoting processes to cover the possibility of any individual order exceeding the signage bid threshold. Awards of quotes will be granted to the lowest responsive bidder per PRO-305, Basis for Bid Awards.

III. Signs from Correctional Enterprises

- A. At their discretion, agencies may purchase signage from BCE if the value is at or below the signage bid threshold.
- B. For procurements over the signage bid threshold, BCE must respond as a bidder and be awarded using the competitive process.





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Title REVERSE AUCTION		Page 1 of 3

SCOPE: The purpose of this policy is to establish the official procedure for obtaining approval, and subsequently conducting, a reverse auction.

POLICY: A reverse auction is a procurement method used to obtain bids for commodities or services where something is purchased from the lowest bidder (which is the “reverse” of a typical auction wherein something is sold to the highest bidder).

Reverse auctions are normally conducted via the Internet whereby bidders anonymously bid against each other for an item (or group of items) needed by an agency. The State of Wisconsin has the legal authority to conduct such events, but consideration is given to competitive bidding and reverse auctions are exceptional.

Prior to requesting approval to run a reverse auction, agencies will consider all competitive solicitation options to determine the method that is in the best interests of the state. See PRO-301, Competitive Procurement Policy.

If the State Bureau of Procurement (Bureau) approves the use of a reverse auction, it will do so in writing and the agency will follow the procedures prescribed by the Bureau.

Unlike competitive bids, there is no mandatory public opening of reverse auction responses and no mandatory public viewing of the reverse auction event. However, responses and reverse auction logs are considered public record. See PRO-105, Procurement Record Retention and Access.

Protest and appeals procedures apply to reverse auctions for contractual services valued over the official sealed bid threshold. See PRO-101, Procurement Definitions and Thresholds. The right to protest the solicitation in a reverse auction is determined by the date of the state's decision to invite/not invite a vendor to participate in a reverse auction ("invitation to participate"). See PRO-204, Contractual Services Procurement.



Legal Authority

Wis. Stats. 16.72(2)(a), (b); (4)(a); 16.75(1)(a), (b), (cm); (1m); (4); (5); (7); 16.754
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-311

Section	Effective	Replaces
COMPETITIVE SOLICITATIONS	9/16/19	PRO-C-31 (9-1-17)
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Legal/public notice requirements apply to reverse auctions valued over the official sealed bid threshold. See PRO-601, Legal/Public Notice.

PROCEDURE:

I. Factors for Consideration

The agency will evaluate its need using the following criteria to determine if a reverse auction is feasible. If the criteria are met, the agency will request approval to run the event from the Bureau.

- A. **Compression:** This is based on the amount of markup there is on an item relative to the value of the total lot. If there is not a substantial markup, vendors are already selling near or at cost. In this case, a reverse auction may not provide enough additional savings to justify the cost of conducting an auction.
- B. **Lot size:** This is based on how much money is at stake and how attractive the business is to prospective bidders. Presumably, a larger lot would attract a larger number of bidders, and therefore, result in better prices.
- C. **Definable quality:** Items that have defined specifications and/or have small or no differences in quality are best suited to a reverse auction.
- D. **Competitive market:** Items available from many vendors are better suited to a reverse auction than items for which there are only one or two suppliers.

II. Bureau Approval

- A. If the Bureau concurs that a reverse auction is appropriate, the Bureau will work with the agency to plan and conduct the process.



Legal Authority

Wis. Stats. 16.72(2)(a), (b); (4)(a); 16.75(1)(a), (b), (cm); (1m); (4); (5); (7); 16.754
Agencies Affected: All, unless otherwise noted

Authorized:
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- B. Clarifications, negotiations, and acceptance of all specifications, requirements, terms and conditions, etc. will occur before the state decides whether to invite a vendor to the reverse auction. After the reverse auction, the state may permit changes only with the limitation that the change(s) do not alter the scope or content of the original solicitation to a degree that will affect the justification that was used to eliminate other vendors from being invited to the reverse auction.
- C. The state will notify responding vendors as to whether they are invited to the reverse auction. The state will not disclose to the public or other vendors, the names of the vendors that have been invited to the reverse auction until after the reverse auction has occurred.
- D. No surrogate bidding is allowed.
- E. The state must approve any re-opening of an auction after it has been closed.



Legal Authority

Wis. Stats. 16.72(2)(a), (b); (4)(a); 16.75(1)(a), (b), (cm); (1m); (4); (5); (7); 16.754
Agencies Affected: All, unless otherwise noted

Authorized:
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State Bureau of Procurement

400-Series: Contract Administration & Transactions

This section of the Manual covers the requirements for proper contract administration, as well as procedures for executing purchasing transactions, disposal and spend management.

PRO-401 Basic Contract Eligibility

PRO-402 Statewide Contracts: Standards and Utilization

PRO-403 Non-Discrimination and Contract Compliance

PRO-404 Standard Terms and Conditions

PRO-405 Contract Administration

PRO-406 Contract Funding

PRO-407 Pricing and Discounts

PRO-408 Purchase Requisitions, Orders and Methods of Payment

PRO-409 Prompt Payment Policy

PRO-410 Purchasing Card

PRO-411 Contract Cancellation and Termination Procedures

PRO-412 Receiving and Acceptance of Purchased Goods and Services

PRO-413 Reporting Supplier Complaints

PRO-414 Lease and Rental Agreements

PRO-415 Vendor Collection of Sales and Use Tax, Agency Tax Exemption and Payments of Certain Taxes

PRO-416 Surplus Property

PRO-417 Purchasing from E-Commerce Systems, Materials Distribution Services and Badger State Logistics

PRO-418 Extended Period Contracts

PRO-419 Prohibited Boycotts in State Contracting



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Department of Administration, State Bureau of Procurement

Number
PRO-401

Section	Effective	Replaces
CONTRACT ADMINISTRATION AND TRANSACTIONS	9/16/19	NEW
Title		Page
BASIC CONTRACT ELIGIBILITY		1 of 2

SCOPE: The scope of this policy is to define the minimum eligibility criteria for state contracts under various circumstances.

POLICY: The following factors must be validated by state agencies to ensure contracts are only awarded to eligible contractors. Individual agencies may have additional eligibility requirements, such as but not limited to those tied to federal uniform guidance, applicable licensure, etc.

Agencies are responsible for ensuring compliance at the time of entering into the contract, and for the duration of the agreement.

Certification of Collection of Sales and Use Tax

Regardless of dollar amount, agencies will not enter into any contract or order with a person, or an affiliate of that person, who are not registered, collecting and remitting Wisconsin sales or use tax on sales of tangible personal property or taxable services in Wisconsin. See PRO-415, Vendor Collection of Sales and Use Tax; Agency Tax Exemption and Payments of Certain Taxes.

Affirmative Action/Non-Discrimination

All suppliers awarded state contracts over the Contract Compliance threshold must submit affirmative action plans. See PRO-403, Non-Discrimination and Contract Compliance and PRO-101, Procurement Definitions and Thresholds.

Prohibited Economic Boycott of State of Israel

For contracts valued over the threshold prescribed in s. 16.75(10p)(c), Wis. Stats., agencies may not enter into a contract with a company unless the contract contains a provision that the company is not, and will not for the



Legal Authority

Wis. Stats. 16.705(9); 16.705(1r); 16.71(1); 16.74; 16.75(10p); 16.765; 20.931(1)(b); 77.66
Wis. Adm. Code Chapter Adm 50

Agencies Affected: All, unless otherwise noted

Authorized:

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duration of the contract, participate in a prohibited boycott as defined in s. 20.931(1)(b). See PRO-419, Prohibited Boycotts in State Contracting.

Contractual Services Performed in the U.S.

Unless excepted, agencies may purchase contractual services only if those services are performed within the United States. See PRO-204, Contractual Services Procurement.

Federal Debarment and Requirements

For agencies awarding contracts funded by approved federal grants or programs, the agency will ensure compliance with any applicable federal eligibility regulations.



Legal Authority

Wis. Stats. 16.705(9); 16.705(1r); 16.71(1); 16.74; 16.75(10p);
16.765; 20.931(1)(b); 77.66
Wis. Adm. Code Chapter Adm 50

Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



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PRO-402

Section	Effective	Replaces
CONTRACT ADMINISTRATION AND TRANSACTIONS	9/16/19	PRO-B-1 (3-15-13)
Title		Page
STATE CONTRACTS: STANDARDS AND UTILIZATION		1 of 3

SCOPE: The purpose of this policy is to establish official procedure for issuance and agency utilization of statewide contracts, as well as establish standards for enterprise contract numbering conventions.

POLICY: Statewide procurement contracts are written directives issued by the State Bureau of Procurement to authorize agency purchasing activities in specified goods and services categories.

Contracts identified as mandatory will be used by the procuring agency, regardless of dollar amount, unless a waiver (i.e. business case exception request) is granted by the contract manager. Business case exception requests (i.e. requests to waive the use of a mandatory contract) are considered on their merits. Where approved, the agency must account for an alternate procurement authority based on the estimated dollar amount. Waiving the use of contract does not also waive applicable bidding procedure. See PRO-301, Competitive Procurement Policy.

Non-mandatory (i.e. optional-use) contracts may be used at the agency's discretion for the goods and services contained in the contract.

State agencies that use the STAR Enterprise Resource Planning (ERP) System must follow the Bureau's established contract numbering convention. See PIM 16-001, Contract Naming Convention.

State agencies that do not use STAR, such as the University of Wisconsin System and its campuses, will use their own unique numbering system for any contracts they administer.

Ch. 16.72(4)(a), Wis. Stats. requires prior approval to enter into services contracts. The following are considered acceptable forms of "prior approval":

- Approved Request for Purchasing Authority
- Approved procurement plan



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4)(a)
 2018 Wisconsin Executive Order 288
 Agencies Affected: All, unless otherwise noted

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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- Approved request for \$150,000 IT or consultant purchases pursuant to 2018 Wisconsin Executive Order 288 (where applicable)
- Authorized piggybacking and use of statewide enterprise contracts

Agencies will first consult contract listings on VendorNet or STAR when goods or contractual services are needed.

PROCEDURE:

- I. Statewide Contract Elements
 - A. Contracts contain complete operational instructions as follows:
 1. What quality is authorized for the procurement
 2. Steps to be taken in selecting the materials or services
 3. How to requisition or order the materials or services
 4. Supplier(s)
 5. Price and payment structure
 6. Terms and delivery information
 7. Stipulations or management controls
 - B. The Bureau posts contracts using the state’s procurement systems. See PRO-103, Procurement Systems and Bidders Lists.
- II. Statewide and STAR Agency Contract Numbering
 - A. Statewide and agency contracts established by STAR agencies will follow the [STAR Purchasing Contract ID Naming Conventions](#).



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4)(a)
2018 Wisconsin Executive Order 288
Agencies Affected: All, unless otherwise noted

Authorized:
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- B. STAR agencies will create contract numbers for all the following transactions:
 - Awarded official sealed bids
 - Awarded Requests for Proposals (RFPs)
 - Approved Request for Procurement Authority (RPAs)
 - Transactions from approved procurement plans
 - Awarded simplified bids covering more than one year

III. Use of Contracts

- A. All purchase orders and other transactions written against a contract will comply with the terms and pricing of the contract. See PRO-408, Purchase Requisitions, Orders and Methods of Payment.
- B. Only items specifically referred to in the contract may be purchased. Other products available from the contractor but not specified on the contract are not covered.
- C. The agency may not modify the scope or the material terms and conditions of the original contract through negotiation. This does not preclude the agency from negotiating and accepting more advantageous or unique terms needed by the procuring agency, or more competitive pricing. See PRO-404, Standard Terms and Conditions.



Legal Authority

Wis. Stats. ss. 16.71; 16.72(4)(a)
2018 Wisconsin Executive Order 288
Agencies Affected: All, unless otherwise noted

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CONTRACT ADMINISTRATION AND TRANSACTIONS	2/18/2020	PRO-D-3 (4-24-13)
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NON-DISCRIMINATION AND CONTRACT COMPLIANCE	1 of 7	

SCOPE: The purpose of this policy is to establish requirements and procedure for the administration of the Wisconsin Contract Compliance Law.

POLICY: The Wisconsin Contract Compliance Law refers to a collection of legal requirements in place to ensure state contracts and other agreements are only held by entities that agree not to discriminate under certain circumstances and that affirmative actions are taken, all as prescribed herein.

Agencies and entities as defined in s. 16.756, Wis. Stats. (“agencies”) cannot contract with suppliers that do not comply with applicable Wisconsin Contract Compliance Law and have responsibility to assist in the administration of Wisconsin’s Contract Compliance Program (Program).

The State Bureau of Procurement (Bureau) manages the administration of the Program, which offers support to entities and contractors. Questions can be directed to the [Contract Compliance Program](#).

Non-Discrimination

Entities receiving state contracts, subcontracts, grants, leases or other agreements from agencies must agree to hire only on the basis of merit and not discriminate against fifteen (15) covered classes as prescribed by s. 16.756, Wis. Stats. and 2019 Wisconsin Executive Order 1. See PRO-101, Procurement Definitions and Thresholds for covered classes.

Non-discrimination requirements apply to contracts of all dollar values.

Affirmative Action and Affirmative Action Plans (AAP)

Universities, other states, and local governments, except those of the State of Wisconsin, and all contractors, who receive state contracts over the Contract Compliance threshold must submit affirmative action plans (AAP) and comply with other responsibilities as prescribed herein. See PRO-101, Procurement Definitions and Thresholds.

The recipient of a grant or lease is not exempt from contract compliance requirements because a contractual agreement results.



Legal Authority

Wis. Stats. 16.75(10p); 16.765
Wis. Adm. Code Chapter Adm 50
Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:
Sara Redford, Director
State Bureau of Procurement



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AAP Exemptions

A contractor is exempt from submitting an AAP when the contractor:

1. Receives a state contract valued at or below the Contract Compliance threshold.
2. Has fewer than fifty (50) employees.
3. Is a foreign company with a work force of less than fifty (50) employees in the United States.
4. Is a federal government agency or a Wisconsin municipality.
5. Has a balanced work force as defined in PRO-101, Procurement Definitions and Thresholds
6. Demonstrates that the U.S. Office of Federal Contract Compliance (OFCC) has audited the contractor's affirmative action program within the last year.

Under rare, special and emergency circumstances, exemptions may be requested of and approved by the Department.

Prohibited Boycotts

Pursuant to s. 16.75(10p), Wis. Stats., contractors must agree not to engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate a contract with a company that is not compliant. See PRO-419, Prohibited Boycotts in State Contracting.

PROCEDURE:

- I. Contractor Responsibilities
 - A. Every contractor who receives a state contract of any dollar amount must agree to hire on the basis of merit and not discriminate against any covered classes.
 - B. Every contractor who receives a state contract over the Contract Compliance threshold must also:



Legal Authority

Wis. Stats. 16.75(10p); 16.765
Wis. Adm. Code Chapter Adm 50
Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:
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1. Agree to equal employment and affirmative action policies and practices in its employment programs.
 2. Post a notice concerning "Wisconsin's Contract Compliance Law" in a conspicuous place for employees and applicants for employment to read.
 3. Submit an AAP (form DOA-3021P, Instructions for Contractors Affirmative Action Requirements Booklet, which includes forms DOA-3784, 3022, 3023 and 3024; see Reference section below) unless the contractor is exempt. All AAPs must comply with the affirmative action requirements of the state as listed on the AAP Review Guide (form DOA-3724). The plan is due to the agency within fifteen (15) working days of the award date of the contract.
- B. If the contractor is exempt from submitting an AAP because it has a balanced work force, the contractor must submit:
- Contractor Request for Exemption from Submitting AAP (form DOA-3024)
 - Contractor Work Force Analysis (form DOA-3022)
 - Contractor's Subcontractor List (form DOA-3023)
 - Supporting labor market information
 - Affirmative action policy statement or a letter to confirm they comply with s. 16.765, Wis. Stats.
- C. When a contractor is exempt due to an audit by the U.S. Office of Federal Contract Compliance within the last year, the contractor must send the agency:
- A copy of OFCC's Acceptance/Compliance Letter



Legal Authority

Wis. Stats. 16.75(10p); 16.765
 Wis. Adm. Code Chapter Adm 50
 Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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- The contractor's equal opportunity/affirmative action policy statement or a letter to confirm they comply with s. 16.765, Wis. Stats. The contractor's policy statement must satisfy s. 16.765, Wis. Stats., and Adm 50, Wisconsin Administrative Code (Wis. Adm. Code)
 - Completed form DOA-3023
- D. For any other exemption requests, the contractor must submit completed forms DOA-3024 and DOA-3023.
- E. Every contractor who receives a state contract over the Prohibited Boycott threshold must agree not to participate in an economic boycott against the State of Israel.

II. Agency Responsibilities

- A. Include contractual provisions for non-discrimination, affirmative action and prohibited boycotts substantially in line with those prescribed by the Department. See PRO-404, Standard Terms and Conditions.
- B. In awarding a contract, the agency will review the Contractor Directory as published by the Program to determine whether the contractor has compliance eligibility. See s. VII below.
- C. If the contractor has eligibility, the agency need not require anything further but will update the contractor file with the date of eligibility expiration.
- D. The agency will refer any written complaint concerning allegations of violations of Wisconsin's Contract Compliance Law to the Program Coordinator.

III. AAP Timetable

If the contractor does not have current eligibility, the agency does the following to obtain an AAP:



Legal Authority

Wis. Stats. 16.75(10p); 16.765
Wis. Adm. Code Chapter Adm 50
Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:
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State Bureau of Procurement



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- A. On the contract award date, the agency must request that an AAP or exemption statement be provided within fifteen (15) working days of the commencement date.
- B. If the agency has not received a response within 15 days, the contractor will be informed of the possibility of being added to the ineligible contractor directory, resulting in possible contract termination.
- C. If the contractor does not provide an AAP or exemption request after 30 days of notification, the agency will recommend identifying the contractor as "ineligible" by sending the following to Program staff:

- Form DOA-3001: Contractor Directory Recommendation

Copies of:

- Correspondence with the contractor
- Purchase order
- Unacceptable AAP and review guide, if submitted

IV. Review of AAP

- A. The agency reviews AAPs using form DOA-3724. If the AAP is acceptable, the agency will notify the Program using form DOA-3001 and send an acceptance letter to the contractor.
- B. If the plan is not acceptable, the agency will notify the person responsible for submitting the AAP specifying the information necessary for an acceptable plan and a due date within fifteen (15) working days of date of notification.

If the contractor does not provide an acceptable AAP, the agency will follow the procedures of III, C.

V. Public Record Access/Confidentiality



Legal Authority

Wis. Stats. 16.75(10p); 16.765
 Wis. Adm. Code Chapter Adm 50
 Agencies Affected: All, plus state authorities listed
 under applicable statutes

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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- A. A contractor's AAP is available for public review in accordance with Wisconsin Statutes Subchapter II, Public Records and Property, and Wis. Adm. Code Chapter 50.07.
- B. If a contractor asserts that all or part of its AAP is confidential, the contractor must identify any confidential information in the form of a letter to the agency and on each page that the contractor affirms contains confidential information.
- C. Access to AAP records will follow applicable requirements of PRO-105, Procurement Record Retention and Access.

VI. Use of Subcontractors

The agency reviews any subcontractors identified on the Contractor's Subcontractor List and for a subcontract(s) over the Contract Compliance threshold, the subcontractor will be held to the same requirements and the agency has the same responsibilities as those applied to the contractor.

VII. Eligibility Directories

The Program updates these directories based on form DOA-3001 received from agencies:

A. Eligible contractor directory

An eligible contractor remains in the Contractor Directory, i.e., has compliance eligibility, until the Department, on its own initiative, undertakes a compliance review or receives a complaint which demonstrates the contractor is no longer following applicable Contract Compliance Law.

B. Ineligible contractor directory

- 1. Following receipt of an agency's recommendation, the Program Coordinator makes an additional contact with the contractor to attempt to obtain an acceptable AAP. The Coordinator reviews the information, determines



Legal Authority

Wis. Stats. 16.75(10p); 16.765
Wis. Adm. Code Chapter Adm 50
Agencies Affected: All, plus state authorities listed under applicable statutes

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the status of the contractor, and notifies both the contractor and the agency of the determination.

2. Designation as an "ineligible contractor" in the Contractor Directory means that:
 - a. The agency may terminate the contract. The agency may not extend a contract with an ineligible contractor.
 - b. The contractor may not participate in any State of Wisconsin bidding, either directly or as a subcontractor or subrecipient.
3. An ineligible contractor remains on the directory indefinitely until they submit an acceptable AAP to the Program Coordinator which satisfies state requirements.

VIII. Complaints and Investigations

- A. Any complaint authorized by s. [16.765 \(6\)](#), Wis. Stats., shall be filed with the Program Coordinator. The complaint shall be in writing and state the basis for the complaint. The Program will assist the complainant in drafting the complaint and will provide notice and resolution per s. [16.765\(7\)](#), Wis. Stats. and Wis. Adm. Code Chapter Adm 50.

REFERENCE: Booklet—Instructions for Contractors Affirmative Action Requirements (form DOA-3021P)
 Wisconsin Affirmative Action Plan Contractor Data (form DOA-3784)
 Contractor Work Force Analysis (form DOA-3022)
 Contractor's Subcontractor List (form DOA-3023)
 Contractor Request for Exemption from Submitting Affirmative Action Plan (form DOA-3024)
 Wisconsin's Contract Compliance Law poster (form DOA-3031P)
 Affirmative Action Plan Review Guide (form DOA-3724)
 Contractor Directory Recommendation (form DOA-3001)



Legal Authority

Wis. Stats. 16.75(10p); 16.765
 Wis. Adm. Code Chapter Adm 50
 Agencies Affected: All, plus state authorities listed under applicable statutes

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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PRO-404

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STANDARD TERMS AND CONDITIONS	1 of 1	

SCOPE: The purpose of this policy is to establish authority for the development and administration of standard terms and conditions in state procurement.

POLICY: Unless waived by the Department, all official sealed bids and proposals shall contain all standard terms and conditions as established by the State Bureau of Procurement, form DOA-3054: Standard Terms and Conditions (Request for Bids/Proposals). All purchase orders shall also contain terms of DOA-3054A: Standard Terms and Conditions (Purchase Order).

All official sealed bids and proposals for contractual services shall contain form DOA-3681: Supplemental Standard Terms and Conditions for Procurements for Services.

- PROCEDURE:**
- I. Form and Format
 - A. Agencies will use the most current versions of the forms identified above in solicitations and subsequent contracts.
 - B. Alternatively, agencies may incorporate these standard terms and conditions into its contract template where the agency has established additional terms that also apply to their contractual relationships.

II. Modifications During Negotiation

Generally, agencies are not allowed to modify or negotiate state standard terms and conditions. Any exceptions taken must be authorized by the procuring agency’s legal counsel or other designated contracting authority.

REFERENCE: DOA-3054: Standard Terms and Conditions (Request for Bids/Proposals)
DOA-3054A: Standard Terms and Conditions (Purchase Order)
DOA-3681: Supplemental Standard Terms/Conditions for Services



Legal Authority
Wis. Stats. 16.71(1)
Wis. Admin. Code Ch. Adm 7.01

Authorized:
Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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PRO-405

Section	Effective	Replaces
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CONTRACT ADMINISTRATION		1 of 1

SCOPE: The purpose of this policy is to establish authority state agency responsibilities for contract administration.

POLICY: Every contract for services will have a specific person designated as the contract administrator responsible for compliance. It is advisable for agencies to also follow these guidelines for commodities contracts also. Designation will be made, or authorized, by the special designated agent for the procuring agency. See PRO-102, Delegation.

The contract will include measurable performance criteria and reporting (as applicable) used to determine the adequacy of the contractor’s performance. See PRO-202, Specifications and Standards.

The agency must designate the name of a knowledgeable individual responsible for administering the contract and carrying out the responsibilities described herein. That name will appear in the contract document or otherwise identified in the contract file.

- PROCEDURE:**
- I. Contract Administrator Responsibilities
 - A. Determine whether the contractor is following the terms and conditions of the contract before any scheduled payment is made or contract renewals are offered.
 - B. Take action related to any non-delivery, failure to meet performance standards, or breach of contract. See PRO-411, Contract Cancellation and Termination Procedures.
 - C. If the agency for which contractual services are performed under a contractual services agreement concludes that the performance was unsatisfactory, the agency will file with the State Bureau of Procurement a complaint per PRO-413, Reporting Supplier Complaints.



Legal Authority

Wis. Stats. 16.70(1e); 16.705
Wis. Admin. Code Ch. Adm 10.12

Authorized:
Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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PRO-406

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SCOPE: The purpose of this policy is to establish the ability to let contracts beyond funds available and options for capital acquisition financing.

POLICY: Contracts may be let in excess of funds currently available. Except in the cases to which s. 18.10 (1), Wis. Stats. applies, such contracts shall state that continuance beyond the limits of existing funds is contingent upon the appropriation of additional funding.

For capital acquisitions, there are three basic options for financing contracts. Agencies will work with the Department of Administration, State Budget Office.

- PROCEDURE:**
- I. Contractual Provisions
 - A. State agencies will include terms related to available funds and non-appropriation as provided by PRO-404, Standard Terms and Conditions.
 - B. Contract funding will be managed in accordance with applicable policies and rules as set forth by the State Controller’s Office.
 - II. Capital Acquisition Financing
 - A. The state has three basic options for financing capital acquisitions:
 - 1. Leasing or lease purchase whereby a capital item is leased by the state for a specified term with the lessor holding the title. In some instances, the contract may provide an opportunity for the state to make an additional payment at the end of the leasing period and receive title to the property.



Legal Authority

Wis. Stats. 16.52(6); 16.75(3), (4); 16.77
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-406

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2. Conditional Sales Contract whereby periodic payments of principal and interest are made. The state builds up equity in the property, but does not obtain clear title until the final contract payment.
 3. Collateral Secured Transaction whereby the state takes full title to the property and pledges the property as collateral for a loan used in turn to pay the supplier of the property.
- B. Leasing or lease-purchase, Conditional Sales Contracts, and variations on these two types of proposals must be examined on a transaction-by-transaction basis.
 - C. In agreements requiring periodic payments in excess of funds available, there must be a provision stating that the contract's continuance beyond the limits of funds currently available is contingent upon appropriation of the necessary additional funds.
 - D. Proposals for Collateral Secured Transactions may raise legal, constitutional and/or public policy questions, and should not be used unless such questions are resolved.



Legal Authority

Wis. Stats. 16.52(6); 16.75(3), (4); 16.77
Agencies Affected: All, unless otherwise noted

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PRICING AND DISCOUNTS		1 of 1

SCOPE: The purpose of this policy is to establish conditions under which supplier price changes may be allowed, and procedure for accepting discounts.

POLICY: Prices established in a continuing contract to provide goods or services over a period of time may be lowered due to general market conditions, but prices will not be subject to increase for 90 calendar days from the date of award (or later, if provided by the terms of the contract).

The State Bureau of Procurement or the agency with transaction authority may accept, negotiate, or reject any proposed price increase.

The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices will reflect these discounts. Prices may be lower than U.S. government contract prices since states are exempt from the most-favored customer clause in GSA contracts.

- PROCEDURE:**
- I. Pricing on Contract, Changes
 - A. Unit prices shown on the order or contract will be the price per unit of sale as stated on the bid or contract. For any given item, the quantity multiplied by the unit price will establish the extended price. If an apparent mistake exists in the extended price, the unit price will govern.
 - B. The contractor will submit any proposed price increase under a contract to the agency at least 30 calendar days before the proposed effective date of the price increase.
 - C. Any price increase will be limited to fully documented cost increases to the contractor which the contractor demonstrates to be industrywide.



Legal Authority

Wis. Stats. 16.528; 16.75(1); (3); (6)(a); 16.76
Agencies Affected: All, unless otherwise noted

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Sara Redford, Director
State Bureau of Procurement



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- D. The conditions under which price increases may be granted will be expressed in solicitations and contracts.
- E. Upon rejection, the contractor may exercise any termination clause in the contract, if that option has been provided for. See PRO-411, Contract Cancellation and Termination Procedures.

II. Discounting

- A. Pricing may be based on quantity discounts, where lower prices may result as higher quantities are achieved.
- B. Quantity discounts that involve bill-back clauses, where an agency will be billed back the difference between a contract quantity price and an actual purchase price if the contract quantity is not achieved, will not be entered into.
- C. In determining bid awards, discounts that are offered for early payment will only be considered when all other conditions are equal. See PRO-305, Basis for Bid Awards.
- D. All possible attention will be given to processing invoices within the terms of payment. In processing invoices, priority is given to invoices which bear a cash discount. See PRO-409, Prompt Payment Policy.



Legal Authority

Wis. Stats. 16.528; 16.75(1); (3); (6)(a); 16.76
Agencies Affected: All, unless otherwise noted

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Sara Redford, Director
State Bureau of Procurement



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SCOPE: The purpose of this policy is to establish authority and official procedure for proper use of various methods for purchasing and payment, including use of purchase orders (hard copy or electronic dispatch), direct charges and purchasing cards (P-Cards).

POLICY: The State Bureau of Procurement and agencies have a responsibility to ensure orders and payment methods are used appropriately.

Requisitions

Unless otherwise stated herein, all goods and contractual services purchased for and furnished to an agency will be done through a requisition process as prescribed by the Bureau. The agency purchasing office is authorized to administer the requisition process within the agency it serves.

Purchase Orders

A purchase order is required for all purchases unless the amount is under the purchase order threshold or made through authorized Direct Charge or P-Card. Purchase orders are issued by agencies with delegated authority to place, change or cancel orders. See PRO-101, Procurement Definitions and Thresholds.

Regardless of the dollar amount, all purchase orders must be supported by proper procurement authority using approved methods. See PRO-301, Competitive Procurement Policy.

The purchase order is a contract. A separate contract may also be attached to or be referenced in the purchase order.



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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All printing, regardless of dollar amount, requires a purchase order. Only staff properly authorized by their agency will issue purchase orders.

Direct Charges/Payments

Certain categories of expenditures and certain transactions under the purchase order threshold may be direct-charged/paid per section III. However, where competition exists, the agency will follow established bidding procedures.

Purchasing Card (P-Card)

The state-issued P-Card is a tool to manage low-dollar purchases using a more efficient payment process only in certain merchant and supply or service categories.

P-Cards are authorized for individual purchases up to the P-Card threshold (or lower if required by the agency). See PRO-101, Procurement Definitions and Thresholds. P-Card purchases may exceed the defined threshold only when used exclusively on statewide contracts with proper authorization by the Bureau and the State Controller's Office. The P-Card is not a means to avoid appropriate procurement or payment procedures.

The cardholder is responsible for maintaining security of the card and any misuse as outlined in PRO-410, Purchasing Card.

PROCEDURE: I. Purchase Orders



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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- A. All purchase orders will be limited by the term of the state fiscal year unless otherwise approved by policies set forth by the State Controller’s Office.
- B. Agencies will account for the procurement and contracting authority on the purchase order through reference to established statewide or agency contracts, approved grants, approved waivers or statutory authority for an agency to transact outside of Ch. 16 rules and regulations.
- C. The coding, numbering sequence and other designations will be determined by the applicable procurement systems used by, and the administrative needs of, the agency issuing the order. However, purchase order numbers that have been cancelled cannot be reused and change orders must refer to the original purchase order number.
- D. Additional required elements of a printed or electronically dispatched purchase order and its attachments (where applicable) include:
 - 1. Issuance date
 - 2. Vendor or Supplier Identification Number
 - 3. Vendor name and address including city, state and zip code and the vendor country if not the U.S.A.
 - 4. Ship-to information including the name of the person responsible for receiving the material, room number,



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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name of building, street address, city, and zip code

5. Standard terms and conditions as provided for by the Department of Administration in accordance with PRO-404, Standard Terms and Conditions.
6. Agreed-upon payment terms in accordance with PRO-409, Prompt Payment Policy.
7. Quantity will be shown for the appropriate lines on the purchase order, in alignment with the itemized detail of invoices, statements of work or other contract documents.
8. Item description including the manufacturer, model number, physical description, size, color, and other data needed to accurately define the item or service.
9. All purchase orders will include the appropriate commodity code(s). The current state standard is NIGP, identified at the five (5) digit level. See PRO-104: NIGP Codes and Standard Coding Structures.
10. Where the cost of shipping, freight or delivery services are not included in the cost of the goods/service, the agency will also use applicable codes related to those expenses.
11. Unit price(s) and total(s)



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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E. Only under exceptional and agency-approved circumstances may a purchase order omit vendor information and/or item description details. Agencies omitting such information will retain documentation of the exception approved by the agency special designated agent.

II. Printing Purchase Orders

A. All printing orders will be accompanied by written specifications, regardless of the method or source, as follows:

1. The agency printing manager is responsible for determining full, detailed and accurate specifications for each order. This includes a description of the item, quantity, delivery schedule, proofing requirements, description of materials to be furnished by the agency, paper requirements, and all other information pertinent to the production of that item.
2. A complete set of specification guidelines and instructions, available from the State Bureau of Procurement, can be used as a checklist to ensure that all specifications have been considered.
3. Standard terms and conditions for Wisconsin printing will be included using DOA-3604, Standard Terms and Conditions for State of Wisconsin Printing.

III. Direct Charges/Payment



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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A. Under specific circumstances, issuance of a purchase order is optional and as an alternative, the agency may use direct charges as a mechanism to pay for certain transaction types. Agencies will consider the following factors, in the order presented, before using the direct charge/payment method:

1. Does competition exist for the good/service being purchased?

If so, the agency will follow applicable procurement rules and payment methods including the use of an official purchase order.

If the agency has established an agreement through the competitive process and the contract allows for a direct charge/payment, see 2 below.

2. What is the estimated dollar amount for the purchase?

If competition exists, yet the anticipated total spend will be less than the purchase order threshold, a direct charge or payment is acceptable in accordance with agency-specific policies and procedures that ensure procurement or purchasing functional review.

3. What is the nature of the good or service being purchased?



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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Regardless of dollar amount, certain goods or services do not require the use of procurement methods or the issuance of purchase orders. These transaction types include the list below. However, if a statewide or agency contract has been issued which requires purchase orders for any item shown on this list, the agency will adhere to the instructions in the contract.

- Fees (individual subscription for periodicals or magazines, witness, court filing, membership, registration, tuition, royalties, accreditation).

Subscription fees related to the purchase of software or other IT solutions as a “subscription” are not included here; competitive procurement rules apply. See PRO-301, Competitive Procurement Policy and PRO-508, Information Technology (IT) and Telecommunications Procurements.

- Indemnity and bounty payments
- Refunds of receipts collected
- Purchases of land and right-of-ways
- Individual airline, rail, and bus tickets, and other travel expenses, including hotel expenses
- Stamps, postage, and U.S. postal services



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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- Construction contracts (See PRO-513, Procurement Considerations in Facilities-Related Projects and Leasing of Space)
- Fire call claims
- Individual eye and physical examinations (reimbursements) and medical payments not covered by insurance (athletics)
- Workers' and unemployment compensation claims
- County payments for maintenance of highways
- Real estate taxes
- Claims board awards
- Aids payments for all types
- Payroll and fringe benefits of state employees
- General services billings and service center transfers within state government
- Inter-fund transfers
- Building rentals



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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- Payments from insurance funds
- Prepayments of U.S. and other government payments
- Utilities bills (electric, gas, and some telephone)
This does not include entering into independent agreements with utilities. Agencies are advised that most telecommunications, network or internet services can be competitively bid or are covered by existing mandatory statewide contracts and cannot be direct-paid.
- Household moves
- Merchandise to be bought and resold by brand name and/or customer preference in a public or institution store or canteen.
- Honoraria
- Purchase of preprinted or recorded materials for educational purchases including books, microfilm/fiche, audio/video recordings, films, etc. (This does not include computer programs.)
- Contracts established for the benefit of agency clientele in which no costs are paid by the state. See PRO-504, Grants or Other Non-Procurement Transactions.



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
16.77; 16.87(2), (3)
Wis. Admin Code Chapter Adm 5

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IV. Invoices

- A. All invoices for goods or services purchased by agencies will be reviewed before payment for math/coding accuracy, compliance with purchasing regulations and terms of the purchase order, evidence of acceptance, potential duplicate payments and conformance with legislative and program intent.
- B. The review of invoices and vouchers will be done by the agencies with delegated preaudit authority prior to approving payment. Discrepancies to any purchase order requiring contact with a vendor or contractor will be referred to the purchasing office for resolution.



Legal Authority

Wis. Stats. 16.528; 16.53; 16.71(1); 16.72(4); 16.76(1)
 16.77; 16.87(2), (3)
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PROMPT PAYMENT POLICY		1 of 3

SCOPE: The purpose of this policy is to establish standards for the prompt payment of invoices, official procedure for disputes, and options to accept early payment discounts.

POLICY: The state will pay its invoices promptly. The state normally will pay properly submitted invoices within 30 days of receipt, provided goods or services have been delivered, installed (if required), and accepted as specified ("standard payment time").

Exceptions to the standard payment time requirement are:

- Any portion of an order or contract under which the payment is made from federal moneys.
- An order or contract that is subject to late payment interest or another late payment charge required by another law or rule specifically authorized by law.
- An order or contract between two or more agencies.
- An order or contract for services which provides for the time of payment and the consequences of non-timely payment.
- An order or contract under which the amount due is subject to a good faith dispute if, before the date payment is not timely, notice of the dispute is sent by first class mail, personally delivered or sent in accordance with the procedure specified in the order or contract.

PROCEDURE: I. Timeliness

A. Payment will be considered timely if the payment is mailed, delivered, or transferred by the later of the following:



Legal Authority
Wis. Stats. 16.528; 16.53(2); 16.53(11); 16.71(1)
Agencies Affected: All, unless otherwise noted

Authorized:
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1. The date specified on a properly completed invoice for the amount specified in the order or contract.
2. Within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract or within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later if the agency does not notify the sender of receipt of an improperly completed invoice within 10 working days after it receives the invoice of the reason it is improperly completed.

B. An agency which does not pay timely the amount due on an order or contract will pay interest on the balance due from the 31st day after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

C. If an agency which does not notify the sender of the invoice within 10 working days of receipt of an improperly completed invoice will pay interest on the balance due from the 31st day after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order or contract, whichever is later.

II. Disputes

A. Agency staff receiving goods/services will notify their agency purchasing office of good faith disputes or improperly completed invoices.



Legal Authority

Wis. Stats. 16.528; 16.53(2); 16.53(11); 16.71(1)

Agencies Affected: All, unless otherwise noted

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- B. A good faith dispute is resolved when both parties have agreed to a remedy. Once the procuring agency has written documentation of the remedy or a corrected invoice is received if required, the agency has 30 days to pay the invoice.
- C. Agencies which notify the sender of an improperly completed invoice within 10 days of receipt, have 30 days to pay the invoice once the deficiency in the invoice has been corrected.
- D. Partial receipt of an order and invoice for that partial shipment does not constitute a proper invoice for purposes of prompt payment unless agreed to by the agency.

III. Discounts for Early Payment

- A. State agencies are encouraged to pay within 10 days if the supplier agrees to offering an additional 2% discount, or another discount term deemed favorable by the agency.



Legal Authority

Wis. Stats. 16.528; 16.53(2); 16.53(11); 16.71(1)

Agencies Affected: All, unless otherwise noted

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PURCHASING CARD		1 of 6

SCOPE: The purpose of this policy is to establish authority, standards and responsibilities related to the state purchasing card (P-Card) program.

POLICY: The state-issued P-Card is a tool to manage low-dollar purchases using a more efficient payment process only in certain merchant and supply or service categories.

Responsibility for the program is jointly administered by the State Bureau of Procurement (Bureau) and the State Controller's Office. Specific authority to administer each agency's P-Card program is made through the controls established under agency procurement delegation agreements. See PRO-102, Delegation.

State agencies using the STAR system will manage P-card transactions in that system.

P-Cards are authorized by agency heads to individual employees based on relevant job duties to make purchases for official state use only.

P-Cards are authorized for individual purchases up to the P-Card threshold (or lower if required by the agency). See PRO-101, Procurement Definitions and Thresholds.

P-Card purchases may exceed the defined threshold only when used exclusively on statewide contracts with proper authorization by the Bureau and the State Controller's Office. The P-Card is not a means to avoid appropriate procurement or payment procedures.

In addition to specified merchant categories, P-Cards are also authorized for certain travel costs including airline tickets and travel agency service fees, lodging and any applicable taxes, car rental and rental car gas, hotel and airport parking and other commercial transportation. foreign emergency major medical expense, training and conference registrations.



Legal Authority

Wis. Stats. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

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Use of the purchasing card results in agency (state) liability, not personal liability for the cardholder. All documents related to the purchasing card may be fully disclosed as a public record to the extent provided for by the Open Records Law.

PROCEDURE:

I. Exclusions

A. The purchasing card is **not**, and may not be used as:

1. A means to avoid appropriate procurement or payment procedures
2. A card to access cash or credit
3. A right of employment
4. For cardholder personal use
5. For reimbursable meal costs. Individual meals are NOT allowed to be charged on the purchasing card.
6. For interagency or intra-agency use (except for retail purchases from any agency operation that sells goods to the public and accepts a charge card; e.g., Document Sales, campus bookstores, etc.)

II. Agency Responsibilities

Agency participation in the Purchasing Card Program will be approved by the Bureau and the State Controller’s Office. Participation requires adherence to the following responsibilities:



Legal Authority

Wis. Stats. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

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- A. Establishing proper controls, internal policies and procedures within the state guidelines identified here and in the State Accounting Manual and the Purchasing Card User Manual.
 - B. Maintaining budgetary controls and monitoring use of the cards by individual cardholders to ensure all purchases comply with all requirements of the program.
 - C. Establishing individual cardholder credit limits within the limits set by Bureau and State Controller’s Office policies.
 - D. For STAR agencies, transactions to be paid are validated through the voucher build process in STAR and payment is sent to the bank prior to the close of a cycle. Agency transactions must be corrected (where applicable), reconciled, and approved by agency staff according to the calendar published by the State Bureau of Procurement.
 - E. Campus payment transactions must arrive at the bank in time to be posted prior to the close of the subsequent cycle.
- III. Agency P-Card Program Administrator Responsibilities
- A. The agency purchasing card program administrator is the liaison between the agency and the Bureau’s Enterprise Cards Program manager. Responsibilities include, but are not limited to, handling purchasing card applications, aiding suppliers (merchants), responding to inquiries on internal policies and procedures, billing information, missing statements and damaged, lost or stolen cards.



Legal Authority

Wis. Stats. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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- B. Agency purchasing card program administrator’s role in the agency implementation process:
 1. Complete the setup forms provided by the contractor.
 2. Select the appropriate merchant category code default template for the agency.
 3. Submit written requests for statewide standard MCC and other policy exemptions to the State Bureau of Procurement’s Enterprise Cards Program manager. Requests must provide programmatic justification for exemption.

- C. Agency purchasing card program administrator’s role in the cardholder setup process:
 1. Obtain and retain a completed form DOA-3584: Purchasing Card Application and Use Agreement from each cardholder applicant. The form may be reproduced or customized as needed.
 2. Complete the cardholder account setup via the online system provided by the contractor.
 3. Coordinate the accounting information for the cardholder with agency accounting.
 4. Provide training to cardholders and supervisors.

- D. If the agency purchasing card program administrator or the cardholder’s supervisor determines that personal or other unauthorized charges have occurred, appropriate disciplinary steps will be taken.



Legal Authority

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- E. For cardholders using foreign emergency major medical expense cards, the agency purchasing card coordinator will follow up with the cardholder to ensure that an insurance claim is filed. See the State Accounting Manual.

IV. Individual Cardholder Responsibilities

The cardholder is responsible for maintaining card security and for any misuse as outlined herein and in the Wisconsin Accounting Manual and in the Wisconsin P-Card Manual. Further:

- A. The card will be used only by the person whose name appears on the card.
- B. Before a state employee can be issued a purchasing card, they will:
 1. Sign a statement acknowledging understanding of the restrictions on the use of the card and the possible actions if they violate the conditions of statewide and agency policies on use of the card.
 2. Receive training as established in agency policies and procedures and documented by the agency purchasing card program administrator.
- C. The cardholder will maintain a record of purchases and retain all original receipts.
- D. Upon receipt of the statement from the card company, the cardholder will verify that the statement agrees with the record. The cardholder will then sign the record to attest that all purchases are for official state business and comply with appropriate rules and regulations. The



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cardholder will then forward the signed record with original receipts to their supervisor (reviewer).

- E. If a cardholder violates the prohibition against personal use, they will return the merchandise for complete credit or repay the state all personal amounts, including any applicable state, county or city sales taxes.

V. Agency Purchasing Office Responsibilities

- A. The central purchasing office will record and report to the Bureau purchases made with Wisconsin-certified supplier-diverse businesses per PRO-606, Supplier Diversity Policy and Reporting.
- B. The central purchasing office will conduct random audits of purchasing card use to ensure that policies and procedures are being followed.

REFERENCE: DOA-3584: Purchasing Card Application and Use Agreement



Legal Authority
 Wis. Stats. 16.71

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CONTRACT CANCELLATION AND TERMINATION PROCEDURES		1 of 5

SCOPE: The purpose of this policy is to establish guidelines and procedure for determining if, and how, a contract is to be ended before its scheduled time due to cancellation or termination, or damages are to be assessed.

POLICY: A "contract" is any agreement between two or more parties which creates an obligation to perform. Acceptance of a purchase order constitutes a contract.

Contract cancellation occurs when either party ends a contract for breach by the other under the circumstances outlined herein in section I, B or C. The cancelling party retains any remedy for breach of the whole contract or any unperformed balance.

Termination occurs when either party ends a contract for cause (performance breaches of contract as outlined herein, other than those circumstances outlined in section I, B or C) or for convenience. Any parts of a contract that already have been completed will be left alone, but obligations for the future, not yet performed, will cease.

- PROCEDURE:**
- I. Cancellation for Cause/Breach of Contract
 - A. An actual breach occurs because of the failure of one of the parties to perform at the time and in the manner required by the terms and conditions of the contract.
 - B. The state reserves the right to cancel in whole or in part without penalty, and without prior notice, if the contractor:
 - 1. Files a petition in bankruptcy, becomes insolvent, or otherwise acts to dissolve as a legal entity
 - 2. Makes an assignment for the benefit of creditors



Legal Authority

Wis. Stats. 402.106(1), (7)
Agencies Affected: All, unless otherwise noted

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3. Fails to maintain and keep in force all required insurance, permits and licenses as provided in this Contract
 4. Fails to protect the state’s confidential information, as defined by applicable law or in contract
 5. Performs in a manner that threatens the health or safety of a State employee, citizen, or customer
- C. The state reserves the right to cancel a contract in whole or in part without penalty, with 30 days’ notice, if the contractor:
1. Fails to follow the sales and use tax certification requirements of s. 77.66 of the Wisconsin Statutes, and/or incurs a delinquent Wisconsin tax liability. See PRO-415, Vendor Collection of Sales and Use Tax; Agency Tax Exemption and Payments of Certain Taxes.
 2. Fails to follow the non-discrimination or affirmative action requirements. See PRO-403, Non-Discrimination and Contract Compliance.
 3. Becomes a state or federally debarred contractor.

II. Termination for Anticipated Breach

A situation may arise where there has not yet been a failure of performance. However, there is strong reason to believe that one of the parties to the contract will not be fulfilling their obligations. The burden of proof is upon the party potentially being harmed who must show convincing evidence of the anticipated breach and reasons why they must go elsewhere to seek performance or take some other course of action. If any damages are involved, usually they are limited



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to the costs in excess of the contract price, when alternate procurement is necessary.

III. Termination for Cause

- A. The state or a contractor may terminate a contract for failure of a party to perform their obligations under the terms of a contract. These circumstances will be outside of those identified in I and II above.
- B. Agencies will provide a written notice to a contractor offering a right and period to cure performance deficiencies. That written notice should also contain a notice that a failure to cure the performance issues may result in contract termination.

IV. Termination for Convenience

- A. Either party may terminate a contract for convenience, meaning the service is no longer needed as specified in the contract. Because termination for convenience is not based on breach, there will not be a cause provided or cure period offered when a party terminates for convenience.
- B. In the event of a termination for convenience, the contractor shall be entitled to receive compensation for any completed or partially completed services rendered or goods provided under the contract. Compensation for partially completed services will be provided, in the state's discretion, based on:
 1. No more than the percentage of completion of the services requested multiplied by the corresponding payment for completion of such services; or



Legal Authority

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2. Actual service hours provided

- C. The state shall be entitled to a refund for goods or services paid for but not received or implemented, such refund to be paid within a prescribed number of days' of written notice to the contractor requesting the refund.
- D. Termination due to non-appropriation of funds is handled as a termination for convenience. See PRO-406, Contract Funding and PRO-404, Standard Terms and Conditions.

V. Termination in the Public Interest/Mutual Consent

- A. Termination is not necessarily a cause for legal action. There may be a mutual agreement for termination with a satisfactory adjustment worked out between contracting parties (e.g. termination in part, not whole).
- B. Change orders which are common purchasing practice technically constitute a termination of a part of, or the whole original contract, and a substitution of a new contractual agreement. These generally are accepted by the buyers and sellers as a natural condition of doing business and carry no implication of a breach of faith or contract.

VI. Liquidated Damages

- A. When it is difficult to determine exact reimbursement costs in advance, liquidated damages may be used as a method of assessing damages for failure of performance, prior to termination of a contract.



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Wis. Stats. 402.106(1), (7)
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B. Assessment of damages is an effort by both parties to agree on a reasonable estimate of otherwise hard-to-determine damages at the inception of the contract if performance is not forthcoming. Liquidated damages are not a penalty. They must be written in detail into the bid language, contract or other written agreement.

VII. Managing Performance Issues, Corrective Action

The best interests of all parties include offering reasonable rights to cure contract issues before escalating to cancellation, termination or assessment of damages.

Documentation of all events is the most important aspect of good contract administration. If verbal warnings are issued, they always should be confirmed in writing as soon as possible.

A complete historical record is the best policy to minimize the state's liability and to support evidence in damage claims. See PRO-405, Contract Administration and PRO-413, Reporting Supplier Complaints.



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Wis. Stats. 402.106(1), (7)
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RECEIVING AND ACCEPTANCE OF PURCHASED GOODS AND SERVICES		1 of 3

SCOPE: The purpose of this policy is to establish responsibility and procedure for the proper receiving and inspection of goods, acceptance of services, and handling claims where such are not acceptable.

POLICY: The state agency is responsible for receiving and inspecting goods. For contractual services, agencies are responsible for monitoring and accepting a contractor's performance in accordance with the terms and obligations of the contract. See PRO-405, Contract Administration and PRO-413, Reporting Supplier Complaints.

- PROCEDURES:**
- I. General Agency Responsibilities
 - A. Whenever possible, agencies will specify F.O.B. destination on solicitations, contracts and purchase orders to avoid filing loss or damage claims. Agencies may accept F.O.B. origin when conditions warrant; however, they should first consult with their risk management office.
 - B. Save all delivery receipts. The cycle of procuring merchandise is not complete until such has been verified as being in absolute compliance with the corresponding purchase order, received, recorded on the receiving report, and supporting documents transmitted to the appropriate offices within the agency.
 - C. Refuse delivery of merchandise which is not in complete agreement with the corresponding purchase order, and to report this action to the agency purchasing office.
 - D. Any container received that has a hazardous warning label without an accompanying Safety Data Sheet (SDS) will be reported to the agency purchasing office. It is the purchasing office's responsibility to contact the vendor for



Legal Authority

Wis. Stats. 16.528; 16.53(2); 16.72(1)
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a SDS as required by PRO-609, Purchasing Products with Safety Data Sheets, and Products Containing Phosphorus.

- E. Report to the agency purchasing office any defective merchandise, improper or short case count, substitutions or failure by the vendor to comply with the order specifications, even if the merchandise has been received in error and placed into service.
- F. Develop the internal administrative procedure to be followed within each agency for handling claims resulting from that agency's purchase orders.

II. Acceptance of Contractual Services

- A. Unless otherwise specified in a contract, acceptance is a manifestation of assent by an agency to the terms, services, deliverables or other items offered by the contractor, after inspection.
- B. If an agency does not accept that a service has been satisfactorily performed by a contractor, it will notify the contractor immediately and document the cause for non-acceptance.

III. Good Faith Disputes

When goods and/or services are not accepted for the reasons outlined herein or in the applicable contracts, or if an improper invoice is received agency staff will: notify the agency purchasing or finance office of a good faith dispute/improper invoice so that the prompt payment policy may be complied with. See PRO-409, Prompt Payment Policy.



Legal Authority

Wis. Stats. 16.528; 16.53(2); 16.72(1)
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IV. Escalation, Involvement of State Bureau of Procurement

If the problem is not resolved after reporting problems to the supplier, contact the State Bureau of Procurement for assistance. See PRO-413, Reporting Supplier Complaints.



Legal Authority

Wis. Stats. 16.528; 16.53(2); 16.72(1)
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REPORTING SUPPLIER COMPLAINTS		1 of 2

SCOPE: The purpose of this policy is to establish procedure for reporting complaints related to supplier performance to the State Bureau of Procurement, and the Bureau’s responsibility for monitoring complaint activity.

POLICY: In order to ensure contracts are successful and performance is sufficiently monitored, agencies and the State Bureau of Procurement (Bureau) have a responsibility to encourage communication between contract administrators, managers and those using contracts.

Contract customers have a responsibility to report any unsatisfactory contract performance to the agency purchasing office or to the Bureau.

Complaints resulting in a good faith payment dispute will also follow PRO-412, Receiving and Acceptance of Purchased Goods and Services.

- PROCEDURE:**
- I. Agency Responsibilities
 - A. Agencies will use form DOA-3686: Complaint Report on Vendor/Contractor Performance, or its functional equivalent, to document contractor performance issues.
 - B. Agencies will establish internal procedures to ensure proper documentation and reporting of contract issues.
 - C. Agencies with services contracts will monitor and resolve complaints per PRO-405, Contract Administration.
 - D. For services contracts, the agency will provide an evaluation of any unsatisfactory contractor performance to the Bureau within 60 days of fulfillment of the contract.
 - E. For state printing, when an order from a statewide contract or simplified bid does not meet expectations, the agency will



Legal Authority

Wis. Stats. 16.705(6), (7); 16.72(4)(a); 16.82(4);
35.03; 227.42
Wis. Admin. Code § Adm. 10.12, 10.14
Agencies Affected: All, unless otherwise noted

Authorized:
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notify the supplier to rectify the problem. Solutions may include reprints, reduction in price or other means as appropriate. If the parties are unable to reach a resolution, the agency will contact the Bureau and file a report using form DOA-3089: Printing Order Evaluation or similar.

II. Bureau Responsibilities

- A. For enterprise, statewide contracts, the Bureau will receive documented complaints centrally.
- B. Upon receipt of an agency evaluation of unsatisfactory contractor performance, the Bureau will review and investigate any outstanding claims.
- C. The Bureau will use the evaluation and the results of its review to determine if the contractor should be placed on a list of contractors found to have performed in an unsatisfactory manner.

III. Supplier Diversity Program

Any complaint involving a supplier-diverse business will also be referred to the director of the Supplier Diversity Program. See PRO-606, Supplier Diversity Policy and Reporting.

REFERENCE: DOA-3686: Complaint Report on Vendor/Contractor Performance
DOA-3089: Printing Order Evaluation



Legal Authority

Wis. Stats. 16.705(6), (7); 16.72(4)(a); 16.82(4);
35.03; 227.42
Wis. Admin. Code § Adm. 10.12, 10.14
Agencies Affected: All, unless otherwise noted

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LEASING AND RENTAL AGREEMENTS; VEHICLES AND OTHER		1 of 3

SCOPE: The purpose of this policy is to establish authority and procedure for state lease and rental agreements for goods, services, equipment and special requirements related to vehicles.

POLICY: The objective of the leasing process is to provide, through contract, use without ownership of certain equipment, permanent personal property or miscellaneous capital.

The objective of the rental process is to provide for the use of personal property on a short-term basis for a fee under a contract. Rentals or leases are generally contracted for a period of months or portion of a month with scheduled billing and cancellable with either party providing 30 days' notice.

The rental and leasing function may be delegated by the State Bureau of Procurement (Bureau) to agencies. Agencies will follow sound procurement practices when determining if rental, lease or purchase are in the best interests of the state. All applicable procurement policies apply to a lease or rental as they do to a purchase.

Total cost analyses will take the life cycle into account where appropriate. See PRO-208, Life Cycle Costing.

To determine the value of a lease or rental agreement, in establishing which levels of delegation apply or the total dollar value of the transaction, use the sum of all scheduled payments for the duration of the anticipated agreement.

PROCEDURE: I. Prior Approvals

Agencies must obtain prior approval from the Bureau, regardless of an agency's level of delegation, for the following:

A. Leasing printing equipment and data processing equipment



Legal Authority

Wis. Stats. 16.705; 16.71(1); 20.915

Agencies Affected: All, unless otherwise noted

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- B. Leasing or renting aircraft, trucks, motorcycles and automobiles for 30 consecutive days or more. Lease or rental of a vehicle is only allowed when it is in the best interests of the state to do so. Considerations include the following:
 - A state-owned vehicle is not available
 - Funds are unavailable for purchasing a vehicle
 - Federal funds are used that specifically prohibit purchasing a vehicle
 - The length of use and/or cost does not justify purchasing a vehicle

II. Lease or Rental of Less Than 30 Days

The agency will use internal procedures as determined by the agency special designated agent under the terms of delegation and applicable procurement policies.

III. Lease or Rental of 30 Days or More

- A. The agency will complete and submit documentation as required to the Bureau transportation procurement manager.
- B. The transportation procurement manager will evaluate each request and forward their recommendation to the Bureau director for final approval.
- C. If at the end of the lease/rental contract the agency still needs the vehicle, the agency will resubmit its request and receive



Legal Authority

Wis. Stats. 16.705; 16.71(1); 20.915

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approval to continue or renew a lease/rental using the procedures in III, A.

IV. Acceptable Methods of Payment

- A. The agency may charge lease/rental vehicles to the appropriate corporate travel card under contract. If that program is not available, the agency may charge the lease/rental to an authorized state purchasing card. See PRO-410, Purchasing Card.
- B. The agency must use the appropriate, authorized fuel card under state contract to fuel rented and leased vehicles when possible. The leasing agency must compile an annual report based on fiscal or calendar year describing the total fuel used and miles driven by vehicles under lease and submit this report to the Department of Administration. The purchasing card may *not* be used for charging fuel purchases.
- C. For approved lease/rentals on a purchase order, the proper code for vehicle leasing and rental is 97514.

REFERENCE: DOA-3850A: Vehicle Lease Request
DOA-3850B: Vehicle Lease Request Cost Analysis
DOA-3851A: Vehicle Extended Rental Request
DOA-3851B: Vehicle Extended Rental Cost Analysis



Legal Authority

Wis. Stats. 16.705; 16.71(1); 20.915

Agencies Affected: All, unless otherwise noted

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VENDOR COLLECTION OF SALES AND USE TAX; AGENCY TAX EXEMPTION AND PAYMENTS OF CERTAIN TAXES		1 of 3

SCOPE: The purpose of this policy is to establish official procedure for the administration of Wisconsin’s tax laws as they relate to doing business with, and as, the state in goods and services contracting.

POLICY: State agencies have a responsibility to ensure they are not doing business with ineligible suppliers for failure to follow sales and use tax laws. Further, agencies are responsible for understanding when they are to be treated as tax exempt, and when certain taxes must be paid for certain purchases.

Vendor Tax Compliance

The Wisconsin Department of Revenue (DOR) is responsible for verifying that vendors and their affiliates follow applicable tax law. DOR will certify a list of vendors that are not in compliance to the Department of Administration. These ineligible vendors will be listed in the Certification for Collection of Sales and Use Tax Vendor Directory. Before doing business with a vendor, agencies will ensure that the vendor’s taxpayer identification number (TIN) does not appear in this directory.

Regardless of dollar amount, state agencies will not enter into any contract or order for the purchase of materials, supplies, equipment or contractual services with vendors or their affiliates who are not registered, collecting and remitting Wisconsin sales or use tax on sales of tangible personal property or taxable services in Wisconsin. Contractors performing construction activities are required to pay state use tax on the cost of materials; UW System buildings are exempt from these taxes per §77.54(9m), Wis. Stats.

Agency Tax Exemption and Certain Payment Responsibilities

State agencies are exempt from payment of some federal taxes and Wisconsin state and local taxes on its purchases. Often the exemption is determined by the circumstances surrounding the purchase.



Legal Authority

Wis. Stats. 16.70(1b), (1e), (3e); 16.75(10m); 77.51(10); 77.54(9a), (11); 77.66

Agencies Affected: All, unless otherwise noted

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State agencies are required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel, and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchase. The State of Wisconsin may be subject to other states' and tribal taxes on its purchases in that state or on tribal lands depending on the laws of that state or tribe.

State agencies do not pay the federal excise tax on purchases of gasoline and jet fuels used in aircraft owned or operated by the state.

State agencies do pay federal tax on airline tickets.

PROCEDURE:

- I. Agency Action Regarding Vendor Compliance
 - A. If the agency determines that it has an existing contract with an ineligible contractor, the agency may contact the contractor and advise them of this requirement and encourage registration to become an eligible contractor by contacting DOR (608/266-3969 or witaxlink@dor.state.wi.us) to request assistance in obtaining the registration. If the contractor's status remains unchanged, the agency must terminate the contract. The agency may not withhold payment pending a change in the contractor's eligibility status.
 - B. For a pending contract award with a vendor that is listed in the directory, the agency may advise the vendor to contact DOR to request a rush registration. However, the agency also reserves the right to not award a contract to an ineligible vendor if the vendor was advised of this requirement in a solicitation and was not responsive at the time of bid award. See PRO-305, Basis for Bid Awards; PRO-308, Basis of Award for Competitive Negotiation (RFP); PRO-401, Basic Contract Eligibility.



Legal Authority

Wis. Stats. 16.70(1b), (1e), (3e); 16.75(10m); 77.51(10); 77.54(9a), (11); 77.66

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C. Questions related to the administration of the sales and use tax list should be referred directly to the DOR.

II. Agency Tax Exemption

A. Registration No. 39-73-1021-K was issued to the State of Wisconsin by the IRS to authorize tax-free transactions under Chapter 32 of the Internal Revenue Code. This registration number is on file with the District Director, U.S. Treasury Department, Internal Revenue Service, Milwaukee, Wisconsin. Chapter 32 does not exempt the state from all federal taxes.

B. The Wisconsin Department of Revenue issues tax exempt numbers for Wisconsin sales and excise tax purposes to the State of Wisconsin, s. 77.54(9a). The Income, Sales and Excise Tax Division of the Wisconsin Department of Revenue should have a record of tax exemption certificates issued.

C. Blanket registration number 39-74-0002-Y is used by all agencies for refund on aircraft fuels.



Legal Authority

Wis. Stats. 16.70(1b), (1e), (3e); 16.75(10m); 77.51(10); 77.54(9a), (11); 77.66

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-416

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SURPLUS PROPERTY DISPOSAL	1 of 12	

SCOPE: The purpose of this policy is to establish official procedure for the federal property program, designation and disposal of state surplus and replacement property of all types, and special considerations for vehicles.

POLICY: The State Surplus Property Program (SSPP) and Wisconsin’s participation in the Federal Surplus Property Program is administered by the Department of Administration (DOA), State Bureau of Procurement (Bureau). The SSPP is responsible for developing and implementing policies for acquiring federal surplus property and disposing of state surplus property, surplus state vehicles and related equipment.

State Surplus Property Program

Depending upon what the item is, agencies have several options to dispose of state surplus property. Agencies will ensure property is disposed of in accordance with policy by identifying staff with surplus management responsibilities and/or working closely with the SSPP.

Surplus Vehicles

Procurement and disposal requirements for vehicles requires special handling. In addition to the requirements set forth herein, see PRO-506, Procurement of Motor Vehicles for procurement requirements.

Federal Property Program

The Federal Property Program solicits and obtains equipment and supplies that are surplus to the needs of federal government agencies and makes the equipment and supplies available to Wisconsin state agencies and municipalities for a service fee. Cost savings may be realized by purchasing equipment and supplies through the Federal Property Program.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
346.65(6)(g)
Wis. Admin Code Adm. 11
Agencies Affected: All, unless otherwise noted

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Since purchases made through the Federal Property Program are transactions between agencies of government, the bidding process is not required. See PRO-504, Grants and Other Non-Procurement Transactions.

Special Categories of Surplus

Existing specific state statutes prevail over general statutes, such as s. 16.72(4)(b), and over the scope of this policy. Agencies will determine if their surplus falls under the authority of a more specific statute. Current examples include but may not be limited to § 346.65(6)(g) related to proceeds from seized vehicles; § 40.01(2) related to employee trust fund usage; and §125.14(2)(e) related to proceeds from alcohol seizures.

University of Wisconsin Surplus with a Purpose (SWAP) Program

The University of Wisconsin-Madison’s SWAP is available to all agencies for the disposal of any property with the potential for reuse, repair or high-grade salvage such as electronics (e.g., computers). Property disposed through SWAP will be reported by the originating owner agency.

Questions regarding the handling of state surplus property and the Federal Property Program will be referred to the [Bureau Surplus Property Program](#).

Donations

Donations to nonprofit corporations (organizations) must be advertised (such as, in a newspaper of general circulation, Internet announcement, or bulletin board posting) and the donation must occur in a competitive manner. No single nonprofit corporation (organization) may be singled out for donation. Verification of nonprofit status may be required.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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Donations of state property to private individuals, for-profit organizations or state employees are prohibited.

PROCEDURE:

- I. Use of Federal Property Program
 - A. State agencies must have an approved application on file to be eligible to receive property through the Federal Property Program. Agencies are encouraged to contact the [Federal Property Program](#) for more information.
 - B. Agencies also are encouraged to provide flexibility in the development of equipment and supplies specifications to permit the purchase of items from the Federal Property Program when practical.
- II. State Surplus Property Inclusions
 - A. State surplus is property (supplies, materials or equipment) that does not meet program needs due to one or more of the following:
 - 1. It does not function in whole or in part.
 - 2. It is technologically obsolete.
 - 3. It is otherwise not useful to the program.
 - 4. It is not needed in the foreseeable future to meet program responsibilities.
- III. State Surplus Vehicle Qualifications



Legal Authority
 Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
 20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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A vehicle qualifies for the SSPP if it is a used vehicle that the DOA has approved for disposal because it satisfies one or more of the following criteria:

- A. Vehicle is replaced by a new, used or other vehicle.
- B. Mileage exceeds minimum criteria as established in the Vehicle Procurement Memorandum for each year.
- C. Vehicle no longer satisfies agency's needs.
- D. Body and/or mechanical damage for passenger vehicles and light trucks exceeds 50% of the National Auto Research Black Book value to repair.
- E. Vehicle, including a bus or a large truck, has been approved for replacement for other reasons by the DOA.

IV. State Replacement Property Inclusions

State replacement is property (supplies, materials or equipment) that is due to be replaced because of one or more of the following:

- A. It is beyond the specified date established in an agency replacement schedule.
- B. It meets established DOA replacement criteria.
- C. It is technologically obsolete.
- D. It does not function in whole or in part.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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E. It will be replaced within the standard replacement schedule or within the current fiscal year with property that is functionally similar.

V. SSPP Role and Responsibilities

A. The SSPP is responsible for developing and implementing policies and procedures for state surplus property disposal.

B. The SSPP staff can assist in the organization of an on-site auction when the accumulated value of the items justifies an auction. Property from multiple agencies may be combined to achieve enough value. This auction option may be requested regardless of the current value of individual items. An auction fee will be charged.

VI. Agency Surplus Property Manager Responsibilities

Each agency will designate an individual as their surplus property manager to:

A. Maintain liaison with, and implement the policies and procedures of, the SSPP.

B. Make periodic inspections within the agency to determine if property qualifies as surplus or is historical.

C. Evaluate and dispose of agency surplus property in accordance with SSPP policies and procedures.

VII. Authorization from the SSPP:



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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- A. Authorization is required to dispose of any state surplus property:
 - 1. Which had an original purchase price over the official sealed bidding threshold, regardless of current market value
 - 2. Which has a current market value over the official sealed bidding threshold. It is the agency's responsibility to determine and document current market value.
- B. Authorization is not required to dispose of state surplus property:
 - 1. Which has a current market value at or below the official sealed bidding threshold and the original purchase price was at or below the same.
 - 2. Which is being transferred between agencies within state government.

VIII. Methods of Disposal

Per Adm 11.06, all state surplus property will be disposed by any one of the following methods:

- A. Transfer or sale to another state agency. The DOA will assist agencies in locating potential users of surplus state property.
- B. Transfer or sale to a municipality, as defined in s. 66.0301(1), other than a state agency.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
 20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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- C. Sale to the public by one of four methods:
 1. Soliciting competitive bid offers from the public.
 2. Offering to the public at a fixed sale price established by the DOA by appraisal, market survey or other means.
 3. Offering to the public at the highest competitive price arrived at through public auctions including on-line auctions.
 4. Arriving at a negotiated sale price that is determined by open documented negotiation.
- D. Sale for salvage value. A minimum of three (3) bids is required from qualified sources. The agency will document the bids, including any negative responses.
- E. Scrapping for no value or limited value (applies only to non-vehicle surplus property).
- F. Destruction when security or confidentiality is required, when disposition by any other method might be hazardous to the public, or when attempts to dispose of the property by all other methods have failed. (This applies only to non-vehicle surplus property.)
- G. When the agency purchases property with federal funds, the agency will adhere to the notice requirements or procedures agreed upon at the time of purchase prior to disposing of the property. The state's disposal requirements then follow.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
 20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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H. There are restrictions on the disposal of certain major appliances, including air conditioners, clothes washers and dryers, dishwashers, freezers, microwave ovens, ovens, refrigerators and stoves.

IX. Surplus Vehicle Disposal

A. In addition to the methods identified above in section VIII, A-D, state agencies are permitted to trade in a vehicle against the purchase of a replacement vehicle. Such a trade-in requires the joint approval and appropriate justification from the SSPP and the transportation procurement manager. However, such a trade must clearly indicate that the trade-in is in the best interest of the state.

B. Donations of state vehicles to private individuals, for-profit organizations or state employees are prohibited. Sales to state employees are prohibited unless vehicles are sold at pre-announced public auctions or by sealed bids.

C. Summer use program or temporary assignment refers to any surplus vehicle(s) that is retained by the owning agency on a temporary basis after the replacement vehicle has been received. Such vehicles must be justified and approved in writing by the SSPP within 30 days after delivery of the replacement vehicle.

D. A tow-away vehicle is a vehicle that has been declared unsafe to operate on public highways.

X. Net Proceeds and Accounting



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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A. Net proceeds refers to the difference between the income received from the sale less allowable deductions. Per Adm 11.07 (1), handling and selling costs may be deducted from the sales proceeds, which include but are not limited to:

1. Staff time (including overtime)
2. Storage expenses
3. Sales commissions
4. Transportation expenses
5. Legal expenses
6. Insurance expenses
7. Preparation expenses
8. Repayment of financial lease obligations

B. The funding source used to purchase the property being sold is important in determining how to account for the net proceeds from the sale of the property. Given appropriation type, net proceeds and accounting of such will be handled in accordance with the [State Accounting Manual](#) and guidance from the State Controller’s Office.

XI. Vehicle Surplus Prior Authorization Requirements

A. SSPP authorization is required before disposing of any vehicle, by any method.



Legal Authority
 Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
 20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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- B. SSPP staff will work with agency fleet manager(s) who are responsible for evaluating and identifying vehicles for disposal and coordinating the agency's responsibilities for proper vehicle disposal.

XII. Property of Potential Historical Value

Generally, property of historical value includes objects and possessions of agencies that are representative of their own past activities or that pertain to broader state and local history. Specifically, such property includes any object in good condition that conforms to one or more of the following:

- A. Property that was vital and unique to the activities and programs of an agency.
- B. Property that was invented, designed, handcrafted or manufactured in Wisconsin.
- C. Property associated with an important person, site or event in Wisconsin history, distant or recent.
- D. Property that advertises or symbolizes Wisconsin-based businesses, organizations or events.
- E. Property that is a work of art and that depicts Wisconsin people, places, events, symbols or activities.
- F. Property that is 50 years old or greater.



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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Specific questions related to items of historical value will be directed to the Wisconsin Historical Society.

XIII. Reporting Requirements

- A. Agencies are delegated the authority to dispose of all surplus property with a present value of less than the top of the best judgment threshold. No approval or reporting is necessary.
- B. Surplus property with a current value matching the simplified bidding threshold does not require pre-sale approval. No immediate sale report is required, but a summary report will be submitted to the SSPP by July 31st for property disposed during the prior fiscal year.
- C. Surplus property with a current value over the official sealed bidding threshold requires prior approval from the SSPP using form DOA-3178: Surplus Property Declaration/Authorization. Sale results will be reported using DOA-3178 as well.
- D. Surplus property that had an original purchase price over the official sealed bidding threshold and that is planned to be sold or traded in will follow the prior approval and reporting procedure in C. above regardless of present value.

XIV. Deface/Destroy Requirements

Prior to the sale of any property, agencies must remove, deface or destroy all State of Wisconsin insignias or identifications. Bonded vendors may be used to perform such services. All state data will be removed from all electronic media prior to disposition in accordance with data destruction policies set by the DOA, Division of Enterprise



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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Technology and other applicable data destruction policies of the agency

XV. Seller's Permit/State Sales Tax

- A. An agency needs a seller's permit from the Wisconsin Department of Revenue (DOR) only if the agency sells property on more than 20 days in a year and that property earns more than \$15,000 a year in taxable gross receipts.
- B. The originating owner agency will report and will pay to the DOR any sales tax collected from its own sales of its surplus state property.

XVI. Management Reviews

The SSPP reserves the right to conduct periodic audits of agencies' surplus property programs.

REFERENCE: DOA-3178: Surplus Property Declaration/Authorization



Legal Authority

Wis. Stats. 16.04; 16.72(4)(b), (5)(a), (b), (c); 16.98
 20.915; 66.0301(1); 77.54(7m); 125.14(2)(e); 181.0103(17)
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PURCHASING FROM E-COMMERCE SYSTEMS, MATERIALS DISTRIBUTION SERVICES AND BADGER STATE LOGISTICS		1 of 3

SCOPE: The purpose of this policy is to provide guidance to agencies and campuses on the proper use of the state’s electronic commerce/catalog system, WisBuy, as well as central agency stores, Materials Distribution Services (MDS) and Badger State Logistics (BSL).

POLICY: For certain statewide and select agency contracts, electronic commerce systems are used to take and manage orders for commonly purchased goods and services. Select goods are also available and must be purchased through the Wisconsin Department of Corrections, Badger State Logistics (BSL).

WisBuy

The State Bureau of Procurement (Bureau) supports an electronic commerce/catalog system called WisBuy. Statewide contracts for commonly purchased goods and services are enabled on WisBuy to allow for a more streamlined online shopping and ordering process on state contracts.

Agencies will use WisBuy as directed by the Bureau. University of Wisconsin campuses and municipalities have the option to use WisBuy.

Materials Distribution Services (MDS)

The University of Wisconsin-Madison administers MDS.

MDS is located in Verona, WI and stocks approximately 200 high-volume items largely in office supplies, office paper, janitorial supplies, laboratory supplies and maintenance items.

MDS utilizes an eCommerce system called Shop@UW to list and distribute their products to the University of Wisconsin Madison and the other UW System campuses. Information about MDS and Shop@UW is available at <https://shopuw.wisc.edu/>.



Legal Authority

Wis. Stats. 16.71(1); 16.73(2); 20.285(1)(ha)

Agencies Affected: All, unless otherwise noted

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Badger State Logistics (BSL)

The Wisconsin Department of Corrections, Bureau of Correctional Enterprises administers BSL. BSL is located in Waupun, Wisconsin. BSL is the source for supply for items that include but are not limited to toilet tissue, paper towels, cups, napkins, can liners, motor oils and lubes, bagged water softener salt, and ice melter.

Contracts impacted by BSL will direct agencies and campuses, where appropriate, to BSL as the first source of supply for select goods.

Both MDS and BSL operations are funded by program revenues (offset costs with an add-on to their cost of goods).

Both have the option of stocking goods from select Bureau statewide contracts, allowing these operations/warehouses to be considered acceptable alternative sources for commodities on statewide contracts. See PRO-402, Statewide Contracts: Standards and Utilization.

Both MDS and BSL may sell to any tax supported entity located within the boundaries of the State of Wisconsin; federal, state, county, municipal or public-school district.

PROCEDURE:

I. WisBuy

Users will sign-up for an account and be granted appropriate access by the Bureau. To sign-up, go to [WIS-Buy](#) and create an account. The Bureau will then activate the account after reviewing the request.

II. MDS

Only University of Wisconsin departments and campuses may use MDS. MDS maintains customer account numbers for the University of



Legal Authority

Wis. Stats. 16.71(1); 16.73(2); 20.285(1)(ha)

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Wisconsin-Madison departments and other University of Wisconsin campuses. University of Wisconsin departments and campuses may establish new customer accounts by contacting the Shop@UW customer service department at (608) 497-4400.

III. Badger State Logistics

Customers are assigned customer numbers for identification and delivery reference purposes, but transactions (ordering and billing) are made by submitting purchase orders. For more information, agencies may call (920)-324-2691.



Legal Authority

Wis. Stats. 16.71(1); 16.73(2); 20.285(1)(ha)

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EXTENDED PERIOD CONTRACTS		1 of 3

SCOPE: The purpose of this policy is to establish circumstances and official procedure for allowing extended period contracts.

POLICY: Contracts run for terms that align with PRO-206, Length of Contracts. However, s. 16.75(3), Wis. Stats., provides that under certain circumstances procurement contracts may be for any period which is in the best interests of the state so long as the term is incorporated in the solicitation and contract document.

An extended period contract status is reserved for exceptional circumstances when continuing a contractual relationship with a supplier for an extended period is more beneficial to the state than could be provided by any other supplier in the foreseeable future.

All extended period contracts must be approved by the State Bureau of Procurement.

PROCEDURE: I. Standards

For a contract to be designated with extended period contract status, it must meet all the following standards:

- A. Contracts for services only.
- B. Requires substantial investment in time, money, infrastructure, training and knowledge by the state and/or the supplier in order to start up and maintain the contract.
- C. Requires consistency in vendor personnel over time to provide evolving understanding of the state's structure and operations.



Legal Authority
Wis. Stats. 16.75(3)

Agencies Affected: All, unless otherwise noted

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- D. Requires innovation and changes in scope, process and technology that are developed by and are mutually beneficial to both parties.
- E. A change of suppliers will disrupt critical state operations and/or cause the state to incur significant, documented costs.
- F. Competition is extremely limited or non-existent.

II. Competitive Solicitations

- A. For a request for bid/proposal, the agency may request approval to designate a contract with “extended period contract” status through a procurement plan. See PRO-201, Procurement Plans.
- B. The request will be accompanied by a justification letter addressing the need for the extended period contract and the standards identified herein.
- C. If approved, the solicitation document and resulting contract will contain all the elements of section IV below.

III. Sole Source:

- A. For a sole source request, the agency prepares the same documentation in section II above and submits as part of an RPA. See PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure.
- B. If the request is approved, the contract document will contain all elements of section IV below.

IV. Contract Provisions



Legal Authority
Wis. Stats. 16.75(3)

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In addition to standard contract terms and conditions, an extended period contract will contain the following:

- A. A statement that the contract has extended period contract status and will continue for a defined number of limited, recurring periods. Except for contracts with certified work centers, contracts will not contain a clause that specifies a term that runs indefinitely. See PRO-509, Sourcing with Work Centers.
- B. A statement of the conditions under which the state may seek competition and potentially terminate the contract, including the timeframe for doing so. These conditions are over and above the normal causes for termination. See PRO-411, Contract Cancellation and Termination Procedures.
- C. A statement of the conditions under which the parties may seek to terminate the contract, including the timeframe for doing so.
- D. Establishment of the required performance standards necessary to maintain extended period contract status.
- E. Establishment of an annual (or other periodic) contract review meeting to discuss performance, industry direction, program enhancements and anticipated state needs for the near and long-term future.



Legal Authority
Wis. Stats. 16.75(3)

Agencies Affected: All, unless otherwise noted

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PROHIBITED BOYCOTTS IN STATE CONTRACTING		1 of 1

SCOPE: The purpose of this policy is to establish the requirement that state agencies and authorities will not enter into contracts over a certain dollar value with companies participating in a prohibited boycott.

POLICY: Pursuant to s. 16.75(10p), Wis. Stats., special designated agents under s. 16.71(1), agencies purchasing under s. 16.74, or an authority may not enter into a contract for goods or services unless the contract includes a provision that the company is not currently participating in, or will not for the duration of the contract participate in, a prohibited boycott per s. 20.931(1)(b).

This policy applies to contracts valued at or above the prohibited boycott threshold. See PRO-101, Procurement Definitions and Thresholds for the applicable threshold and definitions. This policy does not apply to grant contracts; see PRO-504, Grants and Other Non-Procurement Transactions.

- PROCEDURE:**
- I. Requirements
 - A. Agencies will comply with the requirement to include a contractual provision related to prohibited boycotts by following PRO-404, Standard Terms and Conditions.
 - II. Compliance
 - A. The Department of Administration, State Bureau of Procurement, Contract Compliance Program will post a list of companies found to not be following this requirement. The list will be posted on VendorNet. See PRO-403, Non-Discrimination and Contract Compliance.
 - B. Agencies and authorities will notify the DOA Contract Compliance program of any non-compliant companies via email at DOADEOSBOPPrograms@wisconsin.gov.



Legal Authority
Wis. Stats. Ch. 16.75(10p); s. 20.931(1)(b)

Authorized:
Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted

500-Series: Exceptions, Waivers & Special Handling

This section of the Manual focuses on special considerations in Ch. 16 procurement law and related regulations, including but not limited to various waiver methods and handling of certain commodity and service categories.

PRO-501 Waiver of Bidding Process

PRO-502 Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities

PRO-503 Emergency Procurement

PRO-504 Grants and Other Non-Procurement Transactions

PRO-505 Printing Procurement Policy and Procedure

PRO-506 Procurement and Leasing of Motor Vehicles

PRO-507 Procurement from Wisconsin Bureau of Correctional Enterprises

PRO-508 Information Technology (IT) and Telecommunications Procurements

PRO-509 Sourcing with Work Centers

PRO-510 Procurement of Equipment: Energy-Efficient and Graphic Reproduction

PRO-511 Legal Services

PRO-512 Services Requiring Special Approval Authority: Banking and Security Services

PRO-513 Procurement Considerations in Facilities-Related Projects and Leasing of Space

PRO-514 Travel and Conference-Related Procurement



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SCOPE: The scope of this policy is to define authority for waiving the bidding process under various circumstances, and to establish procedure and restrictions governing non-competitive negotiation (sole source) waivers, general waivers, and the composition of waiver justifications.

POLICY: The State Bureau of Procurement may provide for a waiver of bidding when certain circumstances exist which preclude bidding. One or more of the following, with adequate justification, may serve as a basis for waiving use of competitive processes:

Uniqueness: When a product or service can be established as not being available from more than one supplier.

Patent or Proprietary: The patented or proprietary features of a product or service gives the state a superior and necessary utility that cannot be obtained from others. The features are available from only one source and not merchandised through competitive outlets.

Intrinsic Value: When a product has historic, artistic, or educational value, and/or viable specifications or standards cannot be determined in the procurement of a professional or technical service.

Emergency: When the risk of human suffering or substantial damage to state real or personal property exists that requires immediate action. See PRO-503, Emergency Procurement.

Substantial Time Pressure: When substantial time pressure exists beyond the agency's control. This does not include administrative or processing delays or in submitting the necessary documents for purchasing approval.



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
Wis. Adm. Code Chapter Adm 8.05
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



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Specifications presented to the potential supplier as part of any approved waiver must correspond to the specifications of any resulting contract. All approved waivers and supporting documentation will be open to public inspection to the extent practical under governing state open records law. See PRO-105, Procurement Record Retention and Access.

Bidding policies and procedures may not be waived for procurements of printing and stationery. See PRO-505, Printing Procurement Policy and Procedure.

Grant exemptions are a form of waiving State of Wisconsin-specific bidding procedures. See PRO-504, Grants and Other Non-Procurement Transactions.

PROCEDURE:

- I. Non-Competitive Negotiation (Sole Source)
 - A. One or more of the following circumstances, with adequate justification, may serve as the basis for using noncompetitive negotiation:
 1. The service is unique or of a proprietary nature available from only one source.
 2. Grant monies are involved, that cannot qualify as an exemption, that require subcontracts and specify the contractor.
 3. A public emergency exists where the urgency for the required service will not permit competitive solicitation.
 4. Substantial time pressure exists beyond the agency's control.



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
 16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
 Wis. Adm. Code Chapter Adm 8.05
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 Sara Redford, Director
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B. When only one source is known, the agency may find it in the best interests of the state to issue a competitive solicitation to seek any additional sources and/or to encourage future competition. See PRO-301, Competitive Procurement Policy.

II. General Waivers

- A. The agency will consolidate like transactions that will be required on a recurring basis and submit a single RPA to support a general waiver.
- B. General waivers are issued for a period of up to one year.
- C. For recurring general waivers, the agency will include the previous year's total expenditure (with justification for any increase in this year's request) and a breakdown of the total dollar amount by vendor. The agency will include all transactions entered under the general waiver authority regardless of the dollar amount.
- D. General waivers are issued when such action is justified and deemed to be in the best interests of the state. The Bureau may issue a general waiver on specific materials or services, except:
 - 1. Stationery and printing will be purchased from the lowest responsible bidder regardless of dollar amount, except when the Department of Administration exercises the discretion vested in it by s. 16.82(4), Wis. Stats.



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
 16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
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2. Each transaction for legal services will have prior approval by the governor and the Bureau regardless of dollar amount in accordance with PRO-511, Legal Services.
3. Each transaction for acquisition of motor vehicles will have prior approval by the Bureau regardless of dollar amount in accordance with PRO-506, Procurement and Leasing of Motor Vehicles.

III. Public and Legal Notice

- A. All sole source and general waivers over the delegated procurement threshold require notice as prescribed by PRO-601, Public/Legal Notices. Placement of a public notice will be done prior to submitting an RPA for approval from the Bureau.

IV. Justifications

- A. Justifications will be written in clear, nontechnical language that can be understood by persons who may not be directly involved in, or familiar with, the specific program. Therefore, procuring agencies bear responsibility for providing justification for the waiver request. Justifications will include:
 1. A description of the product or service and why it is needed;
 2. A demonstration that only one source exists (sole source only);



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
 16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
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3. A description of the process used for selecting contractors (general waivers only);
4. A statement showing that the price is reasonable either on a fair market value or on a cost basis; and
5. Justification on why the procurement cannot be bid and why the competitive negotiation (request for proposal) process cannot be used, and why the noncompetitive negotiation (sole source) or general waiver method is being recommended; and
6. A statement indicating that the procurement is in the best interests of the state.

See PRO-205, Cost Benefit Analysis (CBA), Continued Appropriateness and Justification of Need for Services, for additional information required when contracting for services.

- V. Submittal, Required Components and Recordkeeping
 - A. The procuring agency will submit complete waiver requests in accordance with PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure.
 - B. The procuring agency will retain all documentation for approved waivers including:
 1. All records originally submitted as required by DOA-3046A: RPA Checklist



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
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2. All records created during the approval process
3. Authorization of the procurement by the Bureau and/or agency official responsible for the transaction.
4. A copy of the contract and/or purchase order.



Legal Authority

Wis. Stats. 16.71; 16.72(4)(a); 16.75(1)(a)(c);
16.75(6)(a)(b)(c)(d)(f); 16.82(4); 19.36(5); 134.90(1)(c)
Wis. Adm. Code Chapter Adm 8.05
Agencies Affected: All, unless otherwise noted

Authorized:
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State Bureau of Procurement



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PRO-502

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Title COLLABORATIVE CONTRACTING: PIGGYBACKING AND USE OF CONTRACTS WITH OTHER AUTHORITIES		Page 1 of 6

SCOPE: The scope of this policy is to define authority for cooperation with, and use of contract(s) by, other entities and to establish procedures governing such use.

POLICY: When it is in the best interests of the state and consistent with competitive purchasing practices, the State Bureau of Procurement (Bureau) may provide for the use of a contract established with or by certain entities.

Collective Purchasing: State agencies may:

- 1) Purchase from any vendor on agreements established by any other state government, federal government, or any municipality of the State of Wisconsin, provided the agreement(s) were competitively awarded.
- 2) Purchase directly from a regional or national consortium composed of nonprofit institutions that support governmental or educational services, or from any vendor on agreements established by such consortium, provided the agreement(s) were competitively awarded. Consortium agreements must be awarded by the consortium itself, or by an entity listed in (1) above.
- 3) Purchase directly from another state government or any municipality of the State of Wisconsin.

Piggybacking: State agencies may:

- 1) Use a contract established by another Wisconsin state agency, if agreeable to both the contracting agency and the vendor, to obtain the benefits of volume purchases and/or reduction in administrative expenses, under the terms outlined herein.
- 2) Collaborate with another Wisconsin state agency to conduct joint competitive solicitations and use the resulting contracts.



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
Agencies Affected: All, unless otherwise noted

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Cooperative Purchasing: State agencies may:

- 1) Enter into an agreement with a one or more Wisconsin municipalities, and municipalities may enter into agreements with each other, under which the parties may agree to participate in, administer, sponsor or conduct purchasing transactions under a joint contract(s) for the purchase of goods or contractual services.
- 2) Cooperate with purchasing agents and other interested parties of any other state or the federal government to develop uniform purchasing specifications under s. 16.72(2), Wis. Stats., on a regional or national level to facilitate cooperative, interstate purchasing transactions.
- 3) Enter into agreements with purchasing agents of any other state or the federal government under which any of the parties may agree to participate in, administer, sponsor or conduct purchasing of goods or services. The agency may then purchase from contracts established as a result of such agreements.

Exclusions and Other Considerations

These options do not apply to construction contracts that are subject to §16.855 or 66.0901, Wis. Stats., or to the purchase of printing, stationary and signage. See PRO-505, Printing Procurement Policy and Procedure.

These options do not waive the need to meet all policies and procedures related to the purchase of contractual services, where applicable. See PRO-204, Contractual Services Procurement.

These options require agencies to ensure vendors are otherwise eligible for contracts. See PRO-401, Basic Contract Eligibility.



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
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These options do not apply to the purchase of vehicles, legal services, general waivers, non-competitive negotiation, or emergency procurements. See PRO-501, Waiver of Bidding Process.

These transactions do not require a public or legal notice unless the requesting agency is leading the competitive solicitation, and contract, that will be used by other entities. See PRO-601, Legal/Public Notice.

State agencies may also purchase supplies, materials, equipment, or contractual services other than printing and stationery, directly from the federal government. These arrangements are considered intergovernmental, non-procurement transactions. See PRO-504, Grants and Other Non-Procurement Transactions.

- PROCEDURE:
- I. Collective Purchasing
 - A. For collective purchases where another entity’s contract will be used, approvals are provided through an RPA to the Bureau for one or more of the following request types:
 1. Commodities and services covered under a mandatory contract, regardless of the dollar amount
 2. Value of the procurement exceeds the official bidding threshold
 3. When the agency intends to lead a solicitation for a contract developed under collective purchasing authority, regardless of the dollar amount



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
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- B. The procuring agency must research the original contract and determine that the following conditions are met:
 1. The contract must be open for the use of other states and the contract term has not expired. The agency cannot use the contract beyond the term set by the originating entity.
 2. The agency must verify that prices have remained competitive since the time of award. The prices must be the same or better than those the agency could expect to obtain if a bid or RFP was conducted.
 3. The originating procurement must have been competitive as provided in PRO-301, Competitive Procurement Policy. Sole source contracts cannot be used.
 4. Any protests or appeals to the procurement were addressed and resolved.
 5. The commodities or services to be purchased are the same as on the original contract.
 6. The terms and conditions are acceptable to the agency and consistent with the state’s standard terms and conditions, and applicable state law and regulation.
- C. Specifically for collective purchases where the agency is purchasing *directly* from another state government or a municipality, the agency will use a procurement plan to request approval. See PRO-201, Procurement Plans.

II. Piggybacking



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
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A. Agency Solicitations

1. If an agency intends to make a contract available for other state agencies to piggyback from, the agency must include a provision allowing for such arrangements in bid or RFP documents.
2. If an agency is leading a joint solicitation with another state agency and identifies them in the procurement plan and in the solicitation, those agencies are not required to submit a request to piggyback the subsequent contract. See PRO-201, Procurement Plans.

B. Approvals

1. State agencies using the statewide enterprise resource planning (ERP) system, known as STAR, will submit form DOA-3831: STAR Piggybacking Request to the Bureau prior to piggybacking another agency's contract.
2. UW campuses and agencies not using STAR will submit form DOA-3047: Piggybacking Data Plan to the Bureau at the time of piggybacking another agency's contract.

C. Conditions

The agency requesting to piggyback researches the original contract to ensure that it contains a provision that allows for piggybacking and that the conditions of I, (B) herein are met.

III. Cooperative Purchasing



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
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A. Agency Solicitations

- Using DOA-3832: Bidder Required Form, agencies will include in each request for bid (RFB) or request for proposal (RFP) over the official bidding threshold an option for a bidder to agree to extend pricing and terms to Wisconsin municipalities.
- When the agency solicits for a one-time purchase, the agency is not required to offer the cooperative purchasing option.

B. Approvals

Cooperative purchasing arrangements or activities beyond the agency's delegation will be submitted for approval to the Bureau using a procurement plan. See PRO-201, Procurement Plans.

C. Conditions

The agency must ensure that the entity they are working with under a cooperative purchase is eligible under applicable Wisconsin statutes.

IV. Additional Cooperative Purchasing Services

A. Under cooperative purchasing authority, the Department or delegated agency may also:

- Purchase and store in warehouses, articles that may be needed by state departments and municipalities. The agency may transport and may sell stored articles to municipalities at cost.



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
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2. Provide for the use of VendorNet, a State of Wisconsin purchasing information and bidder subscription service, to Wisconsin municipalities via the Internet. See PRO-103, Procurement Systems and Bidders Lists.

REFERENCE: Visual Guide for Use of Other Contracts



Legal Authority

Wis. Stats. 16.70(3); 16.71; 16.72(2)(d); 16.75(3t)(b)
16.75(6)(a)(b); 19.82(1); 20.901; 66.0301
Agencies Affected: All, unless otherwise noted

Authorized:
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State Bureau of Procurement



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SCOPE: The purpose of this policy is to define conditions of and official procedure for authorizing a procurement pursuant to an emergency.

POLICY: Emergency procurement procedures can be authorized under an emergency, defined as a situation which:

- Threatens the public health, safety, or welfare; and all of the following conditions exist: was unforeseen; calls for immediate action; and cannot be responded to using established procurement methods; or
- Exists as the result of a declaration by the governor, under s. 323.10, Wis. Stats.

The existence of an emergency situation does not preclude the use of the competitive bidding process in its entirety. Agencies will obtain such competition as is practical under the circumstances. See PRO-301, Competitive Procurement Policy.

This policy does not apply to the purchase of printing or stationary. See PRO-505, Printing Procurement Policy and Procedure.

This policy does not apply to emergency services and materials required to mitigate losses covered under the state’s self-funded insurance program. Questions about this program will be directed to the applicable agency risk manager or the Bureau of State Risk Management.

- PROCEDURE:**
- I. Purchase(s) at or below Emergency Procurement Threshold
 - A. Special designated agents may waive bidding requirements when necessary under emergency conditions, up to the level of the individual’s delegated authority. See PRO-101, Procurement Definitions and Thresholds and PRO-102,



Legal Authority
 Wis. Stats. 16.75(6)(e), (7); 323.10; 323.12(4)(a)(b)
 Agencies Affected: All, unless otherwise noted

Authorized:
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Delegation. Consolidated Agency Purchasing Services (CAPS) agencies will work with their designated CAPS staff.

- B. Within three (3) business days, the procuring agency will finalize and retain a written justification for exercising emergency procurement procedure to include the following:
 1. The specific threat to the public health, safety, or welfare,
 2. The unforeseen nature of the threat,
 3. The basis for the need for immediate action, as opposed to filling the requirement through normal procedures, and
 4. The steps taken to obtain competition on the procurement even with the emergency situation in existence.

II. Purchase(s) over Emergency Procurement Threshold

- A. The agency will promptly give verbal or written notice of the emergency to the director, State Bureau of Procurement or designee, in his/her absence.
- B. Within three (3) business days, the agency will submit a justification letter, including the information in section I. B. 1-4 above, to the director, State Bureau of Procurement.
- C. The director will provide to the secretary, Department of Administration, written notice of the actions taken including the information in section I. B. 1-4 above.
- D. The director will obtain a waiver of a competitive process from the governor, or from the governor’s designee, by title, the



Legal Authority

Wis. Stats. 16.75(6)(e), (7); 323.10; 323.12(4)(a)(b)

Agencies Affected: All, unless otherwise noted

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secretary, Department of Administration. The Bureau will send a copy of the approval to the agency to maintain in its files.

III. Timing of Emergency Procurement Requests

- A. By their nature, emergency situations often must be addressed immediately, and may not accommodate a pre-approval process for waiving competitive bidding. Agencies will follow the approval processes outlined herein as soon as they have the information sufficient to make the request.
- B. If the request is submitted after the purchase has been made, the agency will submit the information required for an emergency purchase as well as information that would otherwise be submitted for an unauthorized purchase; See PRO-106, Prior Approval of Purchases/Unauthorized Purchases. Upon approval, the agency will retain the after-the-fact approval in the procurement file.
- C. If the request is submitted after the purchase has been made, but the request is not approved, the purchase may be considered unauthorized.



Legal Authority

Wis. Stats. 16.75(6)(e), (7); 323.10; 323.12(4)(a)(b)

Agencies Affected: All, unless otherwise noted

Authorized:

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GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS	1 of 4	

SCOPE: The scope of this policy is to define authority and procedure for transactions that may not allow for use of competitive processes i.e. grants, payments made pursuant to statute, utility payments and agreements between certain governmental bodies.

POLICY: The following payments and agreements are considered non-procurement transactions, subject to limited approval and oversight from the State Bureau of Procurement (Bureau). State agencies are responsible for establishing appropriate internal procedures for handling non-procurement transactions.

Grants and Payments Made Pursuant to Statute

The transfer of things of value to a recipient to carry out a public purpose of support or stimulation authorized by law (i.e. grant) or payments made pursuant to statute are not purchases and therefore are not subject to procurement rules and procedures. Agencies must obtain approval from the Bureau to exempt such payments as prescribed herein.

Utilities

When utility services are determined to be available only from a sole source as a result of a regulated or natural monopoly, these services may be obtained without bidding and such payments do not require the approval of the Bureau. Agencies are advised that most telecommunications, network or internet services can be competitively bid or are covered by existing mandatory statewide contracts and are not considered utilities.

Interagency Payments

Interagency agreements or acquisitions of property or services between Wisconsin state agencies are not purchases and do not require approval from the Bureau. This does *not* include a purchase from another agency's contract with a third party. See PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-504

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GRANTS AND OTHER NON-PROCUREMENT TRANSACTIONS	2 of 4	

Intergovernmental Transactions

State agencies may purchase supplies, materials, equipment, or contractual services other than printing and stationery, *directly* from the federal government. These arrangements are considered intergovernmental, non-procurement transactions and do not require approval from the Bureau.

Exclusions and Other Considerations

These options do not waive the need to meet certain procedures related to the purchase of contractual services, where applicable. See PRO-204, Contractual Services Procurement.

Agencies will ensure vendors are not on ineligibility listings. See PRO-401, Basic Contract Eligibility.

Agreements will include state standard terms and conditions as applicable. See PRO-404, Standard Terms and Conditions.

These options do not apply to the purchase of vehicles, legal services, general waivers, non-competitive negotiation, or emergency procurements. See PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure.

These transactions do not require a public or legal notice unless the requesting agency is leading a competitive grant solicitation. See PRO-601, Legal/Public Notice.

Certain other goods and services are eligible for direct charging and do not require a purchase order under certain circumstances. See PRO-408, Purchase Requisitions, Orders and Methods of Payment.

PROCEDURE: I. Grants and Payments Made Pursuant to Statute



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

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The process for exempting grants and payments made pursuant to statute from procurement rules and procedure is as follows:

- A. When first applying for a grant, if the agency intends to name the recipients of the funding, the agency must select those recipients through a competitive process.
- B. The agency must follow a transparent, fair and equitable selection process for choosing recipients regardless of whether or not the agency is using grant funds.
- C. Any agency that wants to exempt a grant program or a payment made pursuant to statute from the procurement rules and procedures must prepare a letter to the Bureau Director in accordance with DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute. The completed checklist will accompany the letter.
- D. The agency head or his/her designee and the agency purchasing officer who is the special designated agent under s. 16.71(1), Wis. Stats., will both sign the letter certifying that the programs identified do not in their judgment constitute purchases.
- E. Upon receipt of the letter, the Bureau will review the programs identified to determine the appropriateness of exempting them from procurement rules and procedures.
- F. All programs that are appropriately exempted from the procurement rules and procedures will be certified back to the state agency by the Bureau director. The Bureau and the state agency will both keep these certification letters on file for future reference.



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

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- G. Any new or modified programs can be exempted from the procurement rules and procedures by following the same process in the future as a need for exemption is identified by any state agency.
- H. An exemption remains in effect for the life of the program as long as funds are available. The exempt program certification has no expiration date and can be used by the agency indefinitely. There is no need for follow-up certification unless substantive changes are made to exempt programs, including changes in funding and eligible recipients. If there are substantive changes, the agency must prepare a letter to the Bureau director according to the procedures above. The agency will use the tracking number from the original exemption.

II. Utilities

- A. Agencies contracting for utility services will document the fact that no bidding was done, when such is the case, due to the existence of a regulated or a natural monopoly.

REFERENCE: DOA-3048: Checklist for a Request for Exemption of a Grant or a Payment Made Pursuant to Statute

Grants and Non-Procurement Transactions: A Visual Guide



Legal Authority

Wis. Stats. 16.70; 16.705; 16.71; 16.72; 16.73; 16.75(2)(b)

Agencies Affected: All, unless otherwise noted

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Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-J-1, J-5, C-18 Various Dates
Title PRINTING PROCUREMENT POLICY AND PROCEDURE		Page 1 of 5

SCOPE: The purpose of this policy is to clarify the applicability of Ch. 35, Wis. Stats. to the purchase of printing and establish bidding and reporting procedures specific to public printing.

POLICY: "Public printing" includes all printing by means of graphic reproduction by whatever process and the necessary materials and binding. The term also includes reproduction of a document in optical disc format whenever the publishing state agency is authorized to reproduce and determines to reproduce copies of a document in optical disc format in lieu of printed format.

Procurements of stationery and printing must be made from the lowest responsible bidder without regard to dollar amount.

Unless otherwise stipulated herein, all public printing will be let using competitive bidding and in accordance with state specific reciprocity rules (e.g. Michigan will only allow Michigan print vendors to provide printing for the state of Michigan; therefore, Wisconsin cannot award to a Michigan print vendor). See PRO-603, Reciprocity Law.

Exclusions

There will be no use of best judgment, bid waiver or competitive negotiation (or Request for Proposal (RFP)) procedures in the purchase of printing. However, use of an RFP is allowed when printing is a minor portion of the purchase and is needed before, during, or after the majority scope of the RFP is performed.

Convenience copying done within state agencies for the purpose of supporting daily operations is not considered public printing.

Awards for printing may not consider the preferences accounted for in PRO-606, Supplier Diversity Policy and Reporting.



Legal Authority

Wis. Constitution, Article IV, Section 25
 Wis. Stats. 16.75; 16.82(4); 35.001; 35.01; 35.012; 35.015
 Agencies Affected: All, unless otherwise noted

Authorized:
 Sara Redford, Director
 State Bureau of Procurement



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PROCEDURE: I. Procurement of Print-Related Goods and Services

A. There are several goods and services associated with printing that are procured under Ch. 16, Wis. Stats. because the requirements of Ch. 35, Wis. Stats. do not apply to them. Specifically, the following are not considered public printing:

1. Materials purchased separately as supply to produce printed materials later i.e. printing plates, or paper.
2. Binding that is purchased separately from the printing process, as in the case of library binding or rebinding.
3. Graphic design services. The graphic designer’s work is completed when final artwork has been accepted and from that point forward, all purchases of printing of the accepted work will be made under Chapter 35, including all preparatory (pre-press) work required for that product.
4. Products that are useful without an imprint, such as an imprinted pen, since a pen has usefulness and value apart from imprint. While a graphic reproduction process is involved in the manufacturing process, the definition of printing in s. 35.01 does not apply in these cases.

Additional examples include vinyl, cloth or plastic ring binders; cups, dishes and dinnerware; pencils, rulers and other office supplies, except paper products; and printed garments i.e. sportswear, tee shirts, uniforms and caps.

5. Commodities purchased in limited quantities and require customized manufacturing methods or are on substrates other than traditional printing substrates. Examples



Legal Authority

Wis. Constitution, Article IV, Section 25
Wis. Stats. 16.75; 16.82(4); 35.001; 35.01; 35.012; 35.015
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include road signs, hallway signs and other directional aids; and cloth, plastic or vinyl banners, billboards, bus wraps, flags and bunting. See PRO-310, Procurement of Signage.

- B. In addition to the exclusions above, Section 35.015 lists two types of printing that are otherwise exempt from the requirements of Ch. 35 printing procurement laws:
1. Section 35.015 (2): Any printing 1) for a single job which the department determines may be printed at a cost less than \$50, other than stationery required for the use of the state; 2) printing authorized and required by the legislature to be done for its use; or 3) printing authorized and required by law to be done for the state.

On certain occasions, a staff member may be out of the headquarter city and be required to make convenience photocopies at unplanned or inconvenient times. In those cases, the agency may approve for payment those incidental printing expenses upon presentation of a dated receipt that shows the inconvenient time or date. The individual must obtain and document competitive pricing from at least three sources. These incidental expenses may not require the issuance of a purchase order, at the discretion of the agency.

2. Section 35.015 (3): Any printing obtained from another state agency or state owned printshop, including printing from Badger State Industries. See PRO-507: Procurement from Wisconsin Bureau of Correctional Enterprises.

State-owned printshops include, but may not be limited to:



Legal Authority

Wis. Constitution, Article IV, Section 25
Wis. Stats. 16.75; 16.82(4); 35.001; 35.01; 35.012; 35.015
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- DOA Publishing and Distribution
- Badger State Industries
- UW Milwaukee
- UW Madison
- UW Stevens Point
- UW Oshkosh
- UW Superior
- UW Platteville
- UW Whitewater
- UW Eau Claire
- UW River Falls

II. Order of Activity for Print Purchases

- A. State agencies may purchase printing from another state agency as an interagency purchase.
- B. Before considering any bidding activity, state agencies will use the contracts provided by the Bureau of Procurement for the purchase of various classes of printing. Any time a bid is conducted in addition to the already three (3) vendors the agency shall include Badger State Industries and DOA Print and Distribution as potential bidders.
- C. Where the need cannot be met through II, A-B, the agency will determine the proper bidding method by calculating the estimated cost of the procurement (printing and paper in total) over the entire length of the contract including renewal options. As an example, for an anticipated contract for one year with a one-year renewal option that is estimated to be \$30,000 per year (\$60,000 two-year total), the official sealed bid process is the appropriate procurement method.



Legal Authority

Wis. Constitution, Article IV, Section 25
 Wis. Stats. 16.75; 16.82(4); 35.001; 35.01; 35.012; 35.015
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- D. All bids will include form DOA-3604: Standard Terms and Conditions for State of Wisconsin Printing and follow applicable bidding policy and procedure.

III. Required Reporting

- A. Agencies will submit an annual fiscal-year report to the State Bureau of Procurement printing manager identifying all public printing activities (internal and external) under Chapters 16 or 35 Wis. Stats. All printing will consist of any printing paid for using monies from a state account for public printing.
 1. Agencies will complete form DOA-3011, Print Log Fiscal Year Report, unless an alternate reporting system has been established by the Bureau.
 2. Reports will be submitted on behalf of the entire agency; sub-unit reports should be sent to the agency's central purchasing office where information is consolidated. If no public printing activities have occurred, identify that on form DOA-3011.
 3. An agency with internal print operations will not report work being produced for another agency. However, the printing operation can be a resource of the information for the procuring agency to complete its report.
- B. The Department of Administration will compile and prepare such summary reports as the joint committee on finance requests.

REFERENCE: DOA-3604: Standard Terms and Conditions for State of Wisconsin Printing
DOA-3011: Print Log Fiscal Year Report



Legal Authority

Wis. Constitution, Article IV, Section 25
Wis. Stats. 16.75; 16.82(4); 35.001; 35.01; 35.012; 35.015
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PRO-506

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-D-16 10-01-88
Title MOTOR VEHICLE POLICY; STATE-OWNED, PROCUREMENT AND RENTAL		Page 1 of 4

SCOPE: The purpose of this policy is to establish preference for use of state-owned vehicles, and the standard purchasing procedures related to the procurement or rental of motor vehicles.

POLICY: A motor vehicle is any automobile, truck, motor bus, or any self-propelled or motor-driven vehicle operated on a public highway [MVD 194.01(01)], and aircraft and inboard motor-powered boats.

A general-purpose vehicle is an automobile, fuel efficient sedan, used for general travel and passenger transportation.

State Vehicle Utilization

The state owns pool (general purpose assigned to a pool, used on request basis) and work (specific function such as special carrying capacity, law enforcement, truck and bus) vehicles. Agencies with a business need to use a vehicle will first determine if state-owned vehicles will meet the need of their specific program or employee(s).

When it is in their best interests to do so, an agency may obtain use of a non-state vehicle under the procedures prescribed herein. Examples include:

- A state-owned vehicle is not available
- Funds are unavailable for purchasing a vehicle
- Federal funds are used that specifically prohibit purchasing a vehicle
- The length of use and/or cost does not justify purchasing a vehicle

Vehicle Lease and Rental

A vehicle lease is a contract between an agency and a vendor to provide a vehicle for a period of 30 consecutive days or more. A vehicle rental means a rental of 29 days or less that is covered by the state's current contract for



Legal Authority

Wis. Stats. 16.003(1); 16.04; 16.71(1); 16.72(2); 20.915(1)
Agencies Affected: All, unless otherwise noted

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State Bureau of Procurement



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leasing or renting vehicles. Agencies will comply with the procedures in PRO-414, Lease and Rental Agreements, and observe the best interests of the state and sound procurement practices. All applicable procurement policies apply to a lease or rental as they do to a purchase.

PROCEDURE:

- I. Vehicle Procurements
 - A. The State Bureau of Procurement (Bureau) develops and updates standard specifications each model year using current information received from manufacturers and reviews the specifications with standards committees. See PRO-203, Standards and Specification Development Committees.
 - B. Standard specifications for general purpose vehicles must meet fuel economy standards required of automobile manufacturers by the federal government at the time of procurement. Law enforcement vehicles and work vehicles are exempt from the mileage requirement.
 - C. After development of the standard specifications, will issue requisitioning instructions to the state agencies for acquisition of automobiles and trucks.
- II. Vehicle Requisitioning and Purchasing
 - A. Upon receipt of requisitioning instructions and standard specifications, agencies will prepare the following documents for transmittal to the Bureau:
 - 1) A Request for Purchasing Approval/Authority (RPA) (Form DOA-3046)
 - 2) A Motor Vehicle Request Explanation (Form DOA-3016)
 - 3) A justification letter with the initials or signature of the agency head, deputy, chancellor or vice chancellor. The



Legal Authority

Wis. Stats. 16.003(1); 16.04; 16.71(1); 16.72(2); 20.915(1)
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following certification must be contained within the request packet:

"The undersigned certifies that the (attached) (this) request for Governor's approval meets all applicable state and federal statutes, rules, regulations, and guidelines. This certification is based upon a thorough and complete analysis of this request."

This should also be signed by the appropriate contracting authority/officer and by the staff person who researched and initiated the request.

- B. Each state agency, upon written approval of the Bureau, may purchase necessary motor vehicles for its general use. The Bureau will review all request for vehicle approval documents prior to transmittal to the governor.
- C. Acquisitions for used automobiles, trucks or aircraft through the Federal Property Program will be subject to governor's approval under ss. 20.915(1). Such vehicle request will be processed in the same manner as procurements of new vehicles. See also PRO-416, Surplus Property.

III. Vehicle Lease and Rental

- A. An agency desiring to lease/rent a vehicle for 30 days or more will submit its request to the Bureau transportation procurement manager using the procedures in III. B, 1-6 and DOA forms 3850 A and B for lease approval or DOA forms 3851 A and B for extended rental approval. The transportation procurement manager will evaluate each request and forward their recommendation to the Bureau director for final approval. If at the end of the lease/rental contract the agency still needs the vehicle, the agency will resubmit its request and receive approval to continue or renew a lease/rental using the procedures in III. B, 1-6.



Legal Authority

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IV. Payment for Vehicle Lease/Rental

- A. The agency may charge lease/rental vehicles to the appropriate corporate travel card under contract. If that program is not available, the agency may charge the lease/rental to an authorized state purchasing card.
- B. The agency must use the appropriate, authorized fuel card under state contract to fuel rented and leased vehicles when possible. The leasing agency must compile an annual report based on fiscal or calendar year describing the total fuel used and miles driven by vehicles under lease, and submit this report to the Department of Administration. The purchasing card may *not* be used for charging fuel purchases. See PRO-410, Purchasing Card.
- C. The commodity code for vehicle leasing and rental is 97514, which will be used on any purchase order.

REFERENCE: DOA-3850A: Vehicle Lease Request
 DOA-3850B: Vehicle Lease Request Cost Analysis
 DOA-3851A: Vehicle Extended Rental Request
 DOA-3851B: Vehicle Extended Rental Cost Analysis



Legal Authority

Wis. Stats. 16.003(1); 16.04; 16.71(1); 16.72(2); 20.915(1)
Agencies Affected: All, unless otherwise noted

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Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-C-33 3-14-13
Title PROCUREMENT FROM WISCONSIN BUREAU OF CORRECTIONAL ENTERPRISES		Page 1 of 3

SCOPE: The purpose of this policy is to establish requirements and official procedure related to procurement of goods and services provided by the Wisconsin Bureau of Correctional Enterprises, doing business as Badger State Industries or Badger State Logistics.

POLICY: Pursuant to s. 16.75(3t)(c), the Department of Corrections (DOC) will provide a current list of all goods and services supplied by their Bureau of Correctional Enterprises (BCE), Badger State Industries (BSI) and/or Badger State Logistics (BSL). This list is available at <http://www.buybsi.com>. See PRO-417, Purchasing from E-Commerce Systems, Materials Distribution Services and Badger State Logistics.

Agencies must advise employees that the purchasing statutes provide penalties for failure to adhere to statutory requirements or to follow proper procedures, including but limited to purchases with BCE. See PRO-106, Prior Approval of Purchases/Unauthorized Purchases.

All goods and services that are available from BCE/BSI must be purchased from them if all the following conditions are present (“right of first refusal”):

1. Goods/services conform to the agency’s specifications;
2. Goods/services can be provided in accordance with the agency’s specified timeline; and
3. Price is comparable to that which could be obtained through competitive bidding/proposals (“market price”).

Exclusions

Certain forms are excluded from the requirements to purchase from BCE as provided in Section II, A below.



Legal Authority

Wis. Stats. 16.75(3t)(b)(c); 16.75(6)(ag)(am); 16.77

Agencies Affected: All, unless otherwise noted

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While BCE provides signage, they are not offered a right of first refusal for the purchase of signs. See PRO-310, Procurement of Signs.

The provisions of this policy do not apply if a separate Memorandum of Understanding (MOU) has been mutually negotiated between DOC and any state agency. In those cases, the specific terms and conditions agreed upon in the MOU will prevail.

- PROCEDURE:
- I. Specifications and Market Price Development
 - A. The agency will review the BCE/BSI website for the goods and services it requires. If BCE/BSI maintains a contract, the agency must contact the designated BCE/BSI representative.
 - B. In developing specifications, the agency will follow PRO-202, Specifications and Standards. Once final, the agency will provide written requirements to BCE/BSI.
 - C. BCE/BSI will review the agency’s requirements and within five (5) working days of receipt, provide either:
 - 1) Confirmation it can meet the agency’s specifications and timeline in accordance with 1-3 above; or
 - 2) Provide a waiver when it is unable to meet the conditions of 1-3 above. Waivers requested due to BCE’s inability to meet an expedited delivery timeframe require adequate justification of the emergent need for the good/service.
 - D. If the agency is unable to determine whether BCE/BSI is offering a market price, it may solicit bids/proposals or quotes prior to awarding an order or contract. However, the agency



Legal Authority
 Wis. Stats. 16.75(3t)(b)(c); 16.75(6)(ag)(am); 16.77
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must obtain a waiver from BCE/BSI before proceeding with the purchase from another supplier.

- E. In comparing costs, if the agency intends to share price quote information between BCE/BSI and other suppliers, it must do so equally.

II. Excluded Forms

- A. This policy does not apply to the printing of:

1. Forms that must be completed by applicants for admission to an institution of the University of Wisconsin System or by students of such an institution who are applying for financial aid, including loans, or for a special course or who are adding/dropping courses, registering or withdrawing, establishing residence or being identified or classified.
2. Forms which are required by federal law.
3. Forms used by teachers to evaluate a student's academic performance.
4. Forms used by hospitals and health care providers to bill or collect from patients and third parties.
5. Forms used by medical personnel in patient treatment.
6. Forms used to collect data from research subjects in the course of research projects administered by the board of regents of the University of Wisconsin System.
7. Internal forms that are not public contact forms.



Legal Authority

Wis. Stats. 16.75(3t)(b)(c); 16.75(6)(ag)(am); 16.77

Agencies Affected: All, unless otherwise noted

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Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 6/21/22	Replaces PRO-508 9-16-19
Title INFORMATION TECHNOLOGY (IT) AND TELECOMMUNICATIONS PROCUREMENTS		Page 1 of 5

SCOPE: The purpose of this policy is to establish pre-approval requirements and official procedure for certain information technology (IT) and telecommunications procurement contracts.

Agencies are advised that the scope of this policy covers only those approvals that overlap between the Division of Enterprise Technology (Division) and the State Bureau of Procurement (Bureau). Agencies are responsible for ensuring any other policies set by the Division that are unrelated to procurement are also complied with.

POLICY: The Department of Administration, Division of Enterprise Technology (Division), develops policy and procedure to ensure a coordinated cost-effective approach to information technology and telecommunications system acquisition and use, and reviews acquisitions in these categories to ensure operational efficiency and consistency with goals and objectives. The scope of IT and telecommunications are defined in PRO-101, Procurement Definitions and Thresholds.

Pursuant to §16.971(2), the Division manages procedures to ensure agency IT and telecommunication purchases are timely, cost-effective, and good management practices are employed in IT contracting.

For large IT or telecommunications contracts, or for those that are vital to the functions of an agency, the Division also ensures those purchases are made in alignment with the statewide strategic IT plan and established standards. See PRO-101 for the large IT/high-risk and telecommunication purchasing thresholds.

The Division, in partnership with the Bureau, exercises certain review and approval processes for IT and telecommunications procurements. The procedures outlined herein apply to transactions within specified thresholds whether or not they are made against existing contracts.



Legal Authority
Wis. Stats. 16.71(1m); 16.78; 16.97

Agencies Affected: Executive branch agencies, excluding
University of Wisconsin System Board of Regents and
University of Wisconsin-Madison

Authorized:
Cheryl Edgington, Director
State Bureau of Procurement



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- PROCEDURE: I. Telecommunications Purchases
- A. When the estimated annual amount for a purchase or change in service results in new costs over the telecommunication purchase threshold, the agency must complete and submit form DOA-6497: Telecommunications System Study Report.
 - B. The Division will send a written response to the agency. If approved, when the subsequent purchase is being made under an existing contract, the agency may proceed with the purchase.
 - C. When the agency intends to conduct a solicitation, use another entity’s contract, or request a waiver of bidding for the purchase, the agency will include the TSSR with its procurement plan or Request for Purchasing Authority (RPA). See PRO-201, Procurement Plans and PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure.
 - D. The agency will retain in its procurement file a signed copy of the TSSR.
- II. IT Purchases
- A. When the agency is making a purchase that meets the definition of a large, high-risk project, the agency will ensure applicable purchases are included in the annual IT reporting required by DET under the authority of §16.976(1).
 - B. Where a procurement plan is required for an IT purchase, the agency will ensure a technical contact is identified on the plan



Legal Authority
 Wis. Stats. 16.71(1m); 16.78; 16.97

Agencies Affected: Executive branch agencies, excluding University of Wisconsin System Board of Regents and University of Wisconsin-Madison

Authorized:
 Cheryl Edgington, Director
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and will otherwise complete the IT-related sections of a procurement plan. See PRO-201, Procurement Plans.

III. Software Purchases

- A. In addition to the requirements of section II, software or cloud-based service purchases in all dollar amounts will be made only in a manner that protects the state’s data, is cost effective, and mitigates contractual risk.
- B. Agencies are not allowed to develop or purchase software that overlaps with the scope of modules covered by the STAR Enterprise Resource Planning (ERP) system without prior approval of DOA. See PIM-17001: Purchasing of Software Related to STAR Functionality.

IV. Contract Terms and Conditions

- A. Agencies will establish procedures to ensure that software or cloud-based terms and conditions are reviewed and, if necessary, negotiated, with the same level of diligence employed with other state contract terms and conditions.
- B. Under the authority of §16.973(13), for contracts involving a large, high risk IT project, as defined by the Division of Enterprise Technology under the authority of §16.973(10) or for contracts at the large, high-risk IT procurement threshold, agencies will include a stipulation requiring the vendor to submit to the department for approval any order or amendment that would change the scope of the contract and have the effect of increasing the contract price.



Legal Authority

Wis. Stats. 16.71(1m); 16.78; 16.97

Agencies Affected: Executive branch agencies, excluding University of Wisconsin System Board of Regents and University of Wisconsin-Madison

Authorized:

Cheryl Edgington, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-508

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- C. The stipulation shall authorize the department to review the original contract and the order or amendment to determine the following and, if necessary, to negotiate with the vendor regarding any change:
 - 1. Whether the work proposed in the order or amendment is within the scope of the original contract.
 - 2. Whether the work proposed in the order or amendment is necessary.

- D. The department or any agency may exclude the stipulation in IV, B and C if all the following conditions are satisfied:
 - 1. Including such a stipulation would negatively impact contract negotiations or significantly reduce the number of bidders on the contract.
 - 2. If the exclusion is sought by the agency, the agency must submit to the department a plain-language explanation of the reasons it was excluded and the alternative provisions that will be included to ensure that the contract will be completed on time and within budget.
 - 3. If the exclusion is sought by the department, the department will prepare an explanation per IV, D, 2.
 - 4. The department submits for approval by the Joint Committee on Information Policy and Technology (JCIPT) any exclusion request and alternative contract provisions. If JCIPT does not contact the department within 14 working



Legal Authority

Wis. Stats. 16.71(1m); 16.78; 16.97

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days of receiving the request, the exclusion and alternative contract provisions shall be deemed approved.

- E. Agencies shall submit for review and approval by DOA those contracts subject to the requirement in IV, B following the process outlined in PIM 22-001, Large, High-Risk IT Contract Review and Approval Process.
- F. For open-ended contracts, agencies must submit to the department quarterly reports documenting the amount expended on the IT development project. An open-ended contract is an IT contract that includes one or both of the following:
 1. Stipulations that provide that the supplier will deliver IT products or services but does not specify the maximum payment amount;
 2. Stipulations that provide that the supplier shall be paid an hourly wage but that do not set a maximum limit on the number of hours required to complete the IT project.

REFERENCE: Telecommunications System Study Report (TSSR) (form DOA-6497)
PIM 22-001 Large, High-Risk IT Contract Review and Approval Process



Legal Authority

Wis. Stats. 16.71(1m); 16.78; 16.97

Agencies Affected: Executive branch agencies, excluding University of Wisconsin System Board of Regents and University of Wisconsin-Madison

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SCOPE: The purpose of this policy is to define the authority for the State Use Program, the role of the State Use Board, and establish procedures for doing business with certified work centers (WC) participating in the program.

POLICY: The State Use law requires agencies to procure needed goods or services from certified work centers.

State Use Board

The State Use Board provides general oversight of the program through its duties as provided in §16.752(2), Wis. Stats. The Governor appoints members to the State Use Board in accordance with §15.105(22), Wis. Stats..

State Use Program

Per §16.752(12), Wis. Stats., state agencies must purchase certain products and services from Wisconsin's certified work centers employing persons with severe disabilities. The State Use Program was created to administer the law that provides state agencies with a fair price, good quality and on-time delivery. The State Use Program is administered by the Department of Administration through the State Bureau of Procurement (Bureau). Questions can be directed to doadeosbopprograms@wisconsin.gov.

State Use Directory

A directory of WCs certified to do business under the program, and the goods/services covered by existing WCs, can be found on the State Use Program website at <http://stateuseprogram.wi.gov/>. Agencies will refer to this directory when executing purchases at all purchasing levels.

Work Center Contracts

The Bureau administers statewide contracts with certain WCs. An agency may award also a contract or continue to contract with a WC under conditions outlined herein. For any work center contract to be established or terminated, approval by the State Use Board is required.



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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Exclusions and Other Considerations

This policy does not apply to the following goods, services or transaction types:

- Non-procurement transactions. See PRO-504, Grants and Other Non-Procurement Transactions.
- Construction contracts that are subject to 16.855 or 66.0901, Wis. Stats
- Purchase of printing, stationary and signage. See PRO-505, Printing Procurement Policy and Procedure and PRO-310, Procurement of Signage.
- Purchase of vehicles, legal services, general waivers, non-competitive negotiation, or emergency procurements. See PRO- 210, Request for Purchasing Authority (RPA) Policy and Procedure.
- Purchases from the industries of the Wisconsin Department of Corrections. See PRO-507, Procurement from Wisconsin Bureau of Correctional Enterprises.
- Purchases from existing mandatory statewide contracts with suppliers that are not WCs. See PRO-402, Statewide Contracts: Standards and Utilization. If an existing vendor will lose more than 15% of its gross yearly sales or production upon loss of a contract, the contract will be exempt from the WC program.

These requirements do not preclude the need to meet all policies and procedures related to the purchase of contractual services, where applicable. See PRO-204, Contractual Services Procurement.



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
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PROCEDURE: Contracts awarded to WCs do not require a public/legal notice.
I. Sourcing with WCs: Directory Purchases

If the agency is purchasing a goods/services listed on the State Use Directory and there is no mandatory statewide contract, the agency will source among WCs only, as follows:

- A. Develop specifications, terms, and a stipulation that WCs must meet all appreciable contribution requirements of §104.01, Wis. Stats.
- B. Identify the WCs (if any) that provide the required good/service by searching on the State Use Program Web site. If no WC is listed, the agency will follow standard purchasing procedures. If only one WC is capable of meeting specifications, the agency may begin contract development without submitting an RPA.
- C. For an existing agency contract with a non-WC supplier, begin solicitation from WCs before the renewal/expiration date. Based on the nature of the procurement, the agency will allow sufficient lead-time to develop a contract with a WC. The agency may establish a cutoff date for the negotiation process. If a contract is not developed by that date, the agency may proceed with standard purchasing procedures.
- D. Follow the procedures established for the appropriate dollar level as prescribed in PRO-101, Procurement Definitions and Thresholds. The WC response must address all specifications.

1. Best Judgment



Legal Authority
Wis. Stats. 16.752; 104.01(6); 104.07
Agencies Affected: All, unless otherwise noted

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The agency need only contact one WC that, in the agency's judgment, will provide a quality product at a competitive price.

2. Simplified Bidding

The agency will solicit at least three (if available) of the WCs listed on the State Use Directory for a quote.

3. Official Sealed Bidding or Request for Proposals (RFP)

The agency or the Bureau will contact all WCs listed for the commodity/service on the State Use Directory to provide notice of the opportunity.

E. If more than one WC responds to a solicitation, the agency will consider the following parameters in its award of a contract:

1. 75% direct labor requirement,
2. Fair market price,
3. Ability to meet specifications,
4. Ability to meet delivery requirements,
5. Quality control, and
6. References

F. Determine fair market price. See section V.



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

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- G. If all responses to the solicitation are equal, the award will be made according to PRO-305, Basis for Bid Awards or PRO-308, Basis of Award for Competitive Negotiation (RFP), whichever is applicable.
- H. For contracts for services that are over the official bidding threshold, the agency will follow notification requirements of PRO-309, Notice of Award for Competitive Solicitations.

II. Sourcing with WCs: Purchases Not on Directory

- A. If the agency is purchasing a good or service that is not listed on the State Use Directory and there is no mandatory statewide contract, the agency will follow the procedures established for the appropriate dollar level as prescribed in PRO-101, Procurement Definitions and Thresholds.
- B. If a WC submits a responsive bid or proposal, the agency will use all other responsive bids/proposals to determine fair market price and award the contract accordingly.

III. WC Solicitation of a Contract

- A. A WC may 1) identify a current contract opportunity between an agency and a non-WC supplier and formally request the opportunity to obtain the contract or 2) request development of a new contract when an agency need is identified.
- B. If an agency contract opportunity is requested, the agency will work with State Use Program staff to determine the impact on



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

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the agency, on existing suppliers, and proper consideration of the parameters in section I, E and F.

- C. To bid for a contract under the State Use Law, in addition to submitting a responsive bid/proposal to the procuring agency, a certified WC must complete and submit a Contract Analysis and Appreciable Contribution Work Sheet – *Initial Cost* (SUB-008). If form SUB-008 is not submitted, any bid/proposal from a WC will be treated as a non-WC bid/proposal and will not result in a State Use Program contract.
- D. If a determination is made to proceed with a WC contract, the agency will give the WC an opportunity to contract upon the existing contract's renewal or expiration, whichever is sooner.

IV. WC Research and Development (R&D)

- A. A WC may request a R&D period for a future contract from the State Use Board if no other WC is listed on the State Use Directory. In this situation, a WC may not currently be able to meet contract specifications but desires to develop such capabilities.
- B. Once granted R&D rights for development of a contract by the State Use Board, a WC may proceed to develop its capabilities knowing that a contract may be made available. For existing contracts, the agency will continue to contract with the non-WC supplier during the development period. If another WC requests the same contract, it will be placed on a waiting list.
- C. R&D periods are established for 90 calendar days. The State Use Program Coordinator may grant one additional 90-



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

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calendar day extension if progress has been made in the development of the commodity/service. Additional extensions must be approved by the State Use Board (SUB). All extension requests are made to the State Use Program coordinator in order to be placed on the SUB meeting agenda.

- D. A WC may be granted no more than three R&D period requests for different commodities/services at one time.
- E. A WC may request information from the agency during the R&D period (e.g. specifications, contract spend history).

V. Fair Market Price

- A. Fair market price must be determined for an initial price when awarding a new contract, for any price increases to an existing contract or at annual review.
- B. A WC must complete and submit a Contract Analysis and Appreciable Contribution Work Sheet – *Initial Cost* (SUB-008).
- C. A WC’s cost analysis is not weighed in a proposal evaluation unless similar information from non-WC vendors would also have been used in a similar procurement.
- D. When a WC requests a price increase, the WC must complete and submit the Cost Analysis and Appreciable Contribution Work Sheet—*Price Increase* (SUB-007).
- E. Preparing and reviewing a cost analysis and appreciable contribution work sheet (SUB-008 or SUB-007):



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

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1. A cost analysis is used as a basis for establishing the fair market price of a commodity/service. A WC must:
 - a. Adhere to Cost Analysis and Appreciable Contribution Work Sheets Definitions and Guidelines; and
 - b. Complete the necessary work sheet applicable to either an initial cost or a price increase.

2. The contracting entity (i.e., the Bureau for a statewide contract or an agency for its own contract):
 - a. Requests any additional or back-up information necessary to clarify the work sheet.
 - b. Reviews the work sheet using the following criteria, as well as other market indicators to determine fair market price:
 - c. The cost of commodities/services if purchased in similar quantities from a non-WC vendor that is currently selling similar commodities/services; for example current state contract prices must receive serious consideration.
 - d. The average of bids/proposals, including the low bid, on the most recent solicitation which are not more than thirty-five percent (35%) above the low bid.
 - e. Appropriate indices such as the consumer price index, the consumer price index for urban wage earners, etc.

3. When the WC is requesting an initial contract or a price increase on an existing contract, develop specifications



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

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and obtain samples from a current WC contract, then solicit bids and samples from non-WC vendors.

- F. If the WC’s price compares favorably to the fair market price, and the WC meets the appreciable contribution requirements, then the contracting entity enters into a contract or amends an existing contract.
- G. If a WC is not at fair market price, the agency will:
 1. Inform the WC it has not met the fair market price criteria;
 2. Provide evidence related to the calculation of the fair market price;
 3. Specify a response date by which the WC must challenge the fair market price calculation or lower their price; and
 4. Negotiate with the WC if they receive a written response challenging their fair market price calculation. If they cannot reach an agreement, the agency will provide a written notification to the Bureau.
 5. For disputes between the agency and the WC regarding fair market price, the agency will:
 - a. Document all actions taken to resolve the conflict.
 - b. Contact the coordinator of the State Use Program if a WC responds but is not awarded the contract due to a failure to resolve the conflict.



Legal Authority
 Wis. Stats. 16.752; 104.01(6); 104.07
 Agencies Affected: All, unless otherwise noted

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6. The coordinator will review the response, facilitate further negotiation and make the final resolution. For statewide contracts, the State Use Coordinator will provide all information to the State Use Board who will make the final resolution.
 - a. If the agency or coordinator determines that the cost is at fair market price, the agency will proceed in developing the contract.
 - b. If agreement still cannot be reached, the coordinator may terminate contract development.

VI. Appreciable Contribution

- A. A certified WC must make an “appreciable contribution” or add value to the commodity. Appreciable contribution must be demonstrated. Factors used in assessing appreciable contribution may include:
 1. A WC must account for appreciable contribution or the value added to the commodity. Appreciable contribution is determined by subtracting the cost of any raw materials or components used to manufacture or to assemble the commodity from the proposed selling price.

The law states that the work center must make an appreciable contribution to the commodity.

Example:

Proposed selling price, per item: \$ 2.50



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

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Subcontract/joint venture costs: (.00)

Material/component costs: (\$1.90)

Added value/appreciable contribution: \$.60

2. Availability of the commodity from market sources in the form used by agencies.
3. Change in the raw materials purchased by the WC to the final commodity that the WC sells to the state, and that makes the commodity useful for the purpose for which it is acquired.
4. Number of persons with severe disabilities providing direct labor.

Example: The State Use Board determined that purchasing toothpaste in 50 gallon drums, inserting the toothpaste into tubes in sizes required by agencies, affixing caps to the tubes and employing seven persons with severe disabilities in the production, satisfied the appreciable contribution requirements.

B. Subcontract/joint venture

A certified WC may enter into a subcontract or joint venture with a for-profit entity. However, any appreciable contribution made by the for-profit entity will not be included as part of the certified WC's appreciable contribution. When two certified work centers enter into a joint venture, the appreciable contribution made to the commodity by both entities is included in the appreciable contribution calculation.



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

Agencies Affected: All, unless otherwise noted

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- C. Once all required documents have been submitted and reviewed, the State Use Program Coordinator will submit the forms to the State Use Board for approval.
- D. A WC's failure to meet or, after receiving a state contract, to continue to meet the appreciable contribution requirement will result in the state's not awarding a contract or terminating its contract with the WC for the particular commodity.
- E. An agency will discuss its concerns about appreciable contribution with the Board prior to the Board taking action to award or to terminate a contract and will provide the WC with a written decision.
- F. A WC may appeal a decision of the State Use Program Board concerning appreciable contribution to the State Use Board by writing to: Chairperson, State Use Board, 101 E. Wilson St., 6th Floor, P.O. Box 7867, Madison, WI 53707-7867. Any WC appeal will be received by the State Use Board within thirty (30) calendar days of the State Use Program Board's decision and must detail reasons for the WC appeal.

VII. Contract Administration/Termination

- A. An order may be terminated by the agency if a WC fails to meet specifications, terms and conditions, performance or delivery requirements. Every effort to negotiate adjustments will be made before canceling the order. If an agency's decision is cancellation, the agency will follow PRO-413, Reporting Supplier Complaints, and notify the State Use Program staff.



Legal Authority

Wis. Stats. 16.752; 104.01(6); 104.07

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- B. State Use Board approval is required to cancel a contract in its entirety. The Bureau will arrange for the agency to present its recommendation for cancellation to the State Use Board.
- C. If the Board suspends a WC's eligibility to provide specific commodities/services in the program, this information will be reflected in the State Use Program Directory.

REFERENCE: Cost Analysis and Appreciable Contribution Work Sheet—*Price Increase* (SUB-007)
Appreciable Contribution Work Sheet – *Initial Cost* (SUB-008)



Legal Authority
Wis. Stats. 16.752; 104.01(6); 104.07
Agencies Affected: All, unless otherwise noted

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Title PROCUREMENT OF EQUIPMENT; ENERGY-EFFICIENT AND GRAPHIC REPRODUCTION		Page 1 of 3

SCOPE: The purpose of this policy is to establish official procedure for the procurement of certain equipment related to graphic reproduction processes, and equipment with energy efficiency requirements.

POLICY: Special approval processes and requirements apply to the purchase of certain equipment, and state agencies will adhere to them.

Graphic Reproduction Equipment

Graphic reproduction equipment means equipment used for printing or graphic reproduction by an agency or campus providing these services for its own convenience or that of another agency or campus. This includes, but is not limited to photocopiers, printers, proofing equipment, prepress equipment, and CTP (computer to plate) equipment.

Procurement of graphic reproduction equipment valued over the official sealed bidding threshold must adhere to the passive approval procedure outlined herein.

A purchase/lease from a current statewide contract, and/or equipment used for instructional printing for students at UW campuses, is excluded from this requirement.

Energy Efficient Equipment

Energy-consuming equipment is any equipment designed for heating, ventilation, air conditioning, water heating or cooling, lighting, refrigeration, or any other function, and that consumes energy.

Procurement of energy-consuming equipment valued over the best judgment threshold must adhere to the energy consumption and efficiency standards as prescribed by the Department of Administration,



Legal Authority

Wis. Stats. 16.001; 16.71; 16.72(2)(4); 16.75 (10e)
16.82(4); 16.855(10s)(a); 35.015(3)
Wis. Constitution, Article IV, Section 25

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State Bureau of Procurement

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Division of State Facilities Development and Management, and the procedures outlined herein.

Solicitations for Equipment

It is practical and, in most cases, appropriate to use life cycle cost methodologies as the basis for awards of competitive solicitations for graphic reproduction and/or energy-consuming equipment. See PRO-208, Life Cycle Costing.

PROCEDURE:

- I. Approval of Graphic Reproduction Equipment
 - A. Agencies will notify the State Bureau of Procurement of a proposed acquisition of graphic reproduction equipment with an estimated cost over the official sealed bidding threshold.
 - B. The agency will complete and sign form DOA-3006: Graphic Reproduction Equipment Notification of Purchase or Lease and submit it to the Bureau prior to issuing a solicitation. Consolidated Agency Purchasing Services (CAPS) agencies will work through their designated CAPS staff.
 - C. The Bureau will acknowledge receipt of form DOA-3006 in writing and will advise the agency within 14 calendar days of receipt. If the Bureau does not act within 14 calendar days, the agency may proceed with the procurement.
- II. Energy-Efficient Equipment
 - A. For equipment valued over the best judgment threshold per unit, agencies will only purchase equipment that meets the



Legal Authority

Wis. Stats. 16.001; 16.71; 16.72(2)(4); 16.75 (10e)
16.82(4); 16.855(10s)(a); 35.015(3)
Wis. Constitution, Article IV, Section 25

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energy consumption standards established per §16.855(10s)(a), so long as the equipment meeting the standards of section II, B below is reasonably available.

- B. At a minimum, the equipment must meet or exceed the current applicable guidelines of the federal Environmental Protection Agency relating to energy efficiency, guidelines that apply to the federal energy management program under [42 USC 8251](#) et seq., and standards established by the American Society of Heating, Refrigerating and Air Conditioning Engineers.
- C. If the unit(s) being procured do not meet the standard of section II, B, the procuring agency will ensure the unit(s) maximize energy efficiency to the extent technically and economically feasible.
- D. The procuring agency shall not determine that energy consuming equipment meeting the applicable standard is not “reasonably available” based on cost alone.
- E. The procuring agency will not determine that the equipment which meets the standard is not “cost effective” unless the difference in costs of the purchase and installation of the equipment meeting the standards, and the equipment that would otherwise be installed, is greater than the difference in the cost of operating the equipment that meets the standard and the equipment that would otherwise be installed, taken over the anticipated life of the equipment.

REFERENCE: DOA-3006: Graphic Reproduction Equipment Notification of Purchase or Lease



Legal Authority

Wis. Stats. 16.001; 16.71; 16.72(2)(4); 16.75 (10e)
16.82(4); 16.855(10s)(a); 35.015(3)
Wis. Constitution, Article IV, Section 25

Authorized:

Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-511

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 2/18/2020	Replaces PRO-I-8 2-16-09
Title LEGAL SERVICES		Page 1 of 2

SCOPE: The purpose of this policy is to establish official procedure when contracting for legal services.

POLICY: No agency in the executive branch may employ any legal counsel until such employment has been approved by the governor under § 20.930, Wis. Stats. The engagement of legal services is a contractual service, subject to the provisions of Chapter 16, Wis. Stats. See PRO-204, Contractual Services Procurement.

All requests for procurement of legal services will be processed through the State Bureau of Procurement as a Request for Purchasing Approval/Authority (RPA). See PRO-210, RPA Policy and Procedure. Agencies will not send requests directly to the governor's legal counsel.

This policy does not apply to contracts pursuant to s. 14.11, Wis. Stats., for legal services paid from the Department of Justice special counsel appropriation.

- PROCEDURE:**
- I. RPA Requirement
 - A. An RPA will be submitted by the agency regardless of its delegated authority and the dollar amount of the transaction. The RPA will be signed by the agency head, deputy, chancellor or vice chancellor.
 - B. The agency may conduct procurement processes for legal services within its delegated authority. All contracts must comply with section II below.
 - C. For requests for bids/proposals beyond delegated authority, the agency will submit a procurement plan. See PRO-201, Procurement Plans. Upon Bureau approval, the agency may



Legal Authority
Wis. Stats. 14.11, 16.705(2), 20.930
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

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PRO-511

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conduct the procurement process. Post-award, the agency will submit a copy of the signed contract with the RPA.

- D. For noncompetitive negotiation (sole source) procurements beyond delegated authority, the agency will submit an RPA along with the original(s) of the proposed contract for approval.

II. Compliance with §. 20.930, Wis. Stats.

- A. The RPA will contain the proposed contract.
- B. Both parties sign the proposed contract prior to the Governor’s approval. Each contract will contain a clause stating that, pursuant to § 20.930, Wis. Stats, no work may proceed prior to the Governor's approval.
- C. The Governor’s signature on the RPA case letter is indicia of approval and represents the Governor’s signature on the contract.
- D. When the procurement is approved, the agency receives an authorizing RPA contract number as well as a copy of the signed case letter indicating the Governor's approval.



Legal Authority

Wis. Stats. 14.11, 16.705(2), 20.930

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-512

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-I-6; I-7 Various Dates
Title SERVICES REQUIRING SPECIAL APPROVAL AUTHORITY: BANKING AND PRIVATE SECURITY SERVICES		Page 1 of 2

SCOPE: The purpose of this policy is to establish approval requirements and official procedure related to procurement of banking or private security services.

POLICY: Certain categories of services need to be approved by proper/expert authorities prior to an agency making a purchase, regardless of dollar amount.

Private Security Guard Services

Prior to taking any procurement, purchasing or contractual action for private security guard services, the agency first will contact the Department of Administration, Wisconsin State Capitol Police, room B2 North State Capitol, telephone (608) 266-7840.

Banking and Related Services

Under section 34.045, Wisconsin Statutes, the Depository Selection Board establishes procedures for the contracting of banking services.

When a state agency determines that it needs to 1) utilize an existing state contract to establish banking services (e.g., new bank accounts or lockboxes); or 2) procure a new banking service, it will follow the procedures outlined herein and applicable requirements of the State Accounting Manual.

- PROCEDURE:**
- I. Approval of Private Security Services
 - A. The Capitol Police will furnish the agency with a Security Program Study Report (form DOA-8467), which is to be completed according to instructions and forwarded to Capitol Police for approval.
 - B. When a procurement plan is required, the agency will include a copy of the approved form at the time it is sent to the State



Legal Authority

Wis. Stats. 15.105(3); 16.71; 20.905(1); 20.920(2)(c);
34.045
Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



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PRO-512

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Bureau of Procurement (Bureau) for approval. See PRO-201, Procurement Plans.

- C. The agency will complete the form initially and with every subsequent solicitation. The agency need not complete the form for contract extensions unless the original request did not include renewal options.

II. Approval of Banking Services

- A. An agency is required to e-mail form DOA-2571, Uniform Request for Banking Services, to the Treasury Services supervisor within the State Controller’s Office.
- B. Requests to use an existing state contract to establish banking services will be approved directly by the State Controller’s Office. Requests for new banking services, which may require a new procurement, will result in the State Controller’s Office consulting with the Bureau. In addition, any resulting procurement may need the approval of the Depository Selection Board before the request for bid/proposal is released.
- C. Proposed procurements that are primarily for non-banking services but include ancillary banking services (e.g., a fiscal agent contract that includes a subcontracted bank to provide checking and deposit services) must also be communicated to the Bureau and State Controller’s Office for consult.

III. Recordkeeping

The agency will retain in its files a copy of this approved form(s) and related approval correspondence with the official procurement file.



Legal Authority

Wis. Stats. 15.105(3); 16.71; 20.905(1); 20.920(2)(c); 34.045
Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-513

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 2/18/2020	Replaces PRO-D-11, D-17, D-21, D-22 Various Dates
Title PROCUREMENT CONSIDERATIONS IN FACILITIES-RELATED PROJECTS AND LEASING OF SPACE		Page 1 of 5

SCOPE: The purpose of this policy is to define the proper authorities, and official procedure, for certain transactions and/or agreements related to state facilities (e.g. projects, construction, leasing).

POLICY: Certain state agency transactions and contracts have overlap between goods and services procured under the authority of Subchapter IV, Ch. 16.70, Wis. Stats. (Purchasing) rules and Ch. 16.84-16.85, Wis. Stats. (Facilities) rules.

Contracts and transactions that are subject to Purchasing rules are reviewed and approved by the State Bureau of Procurement (Bureau). Contracts and transactions that are subject to Facilities rules are reviewed and approved by the Department of Administration, Division of Facilities Development and Management (DFDM).

Chapter 16 of the Wisconsin Statutes designates the Department of Administration as the managing authority under the Wisconsin Administrative Code, Adm. Chapter 2 – “Use of State Buildings and Facilities” (as defined in s.16.845(2) (b)), of the state-owned, leased or rented office buildings and facilities as provided in s.16.84 (1). The DFDM provides leadership, coordination, and technical advice working with partners and stakeholders to develop and preserve the investment in the State of Wisconsin facilities and related assets.

Construction Projects and Real Property Sales, Purchases and Remodels

The DFDM is responsible for new construction, purchase, sale, and remodeling of state-owned facilities.

Limited Trades Contracts

Limited trades work means maintenance work consisting of the repair or replacement of existing equipment or building components with equipment



Legal Authority

Wis. Stats. 16.70(7); 16.72(3); 16.75(6)(c); 16.84(5); 16.845; 16.8511(2); 16.855; 16.87; 16.88 103.49

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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or components of the same kind, if the work is not dependent upon the design services of an architect or engineer, and does not alter or affect the performance of any building system, structure, exterior walls, roof or exits, or the fire protection or sanitation of the building. Limited trades work includes decorative and surface material changes within a building and minor preventive maintenance to ancillary facilities such as exterior lighting, drives, parking lots, sidewalks and fences.

Depending upon the spend amount and other factors prescribed herein, limited trades contracts could be managed under either Purchasing or Facilities rules. See PRO-101, Procurement Definitions and Thresholds for definitions of maintenance work, construction work, moveable equipment and threshold amounts.

Limited trades contracts less than the limited trades threshold are considered procurement contracts under Bureau rules and procedures.

Contracts at or above the limited trades threshold are processed under the rules and procedures of the DFDM.

Leasing of Space/Real Property

The DFDM, Bureau of Real Estate Management, is responsible for all functions relating to the leasing of all real property for the state agencies. This includes locating, negotiating and developing leases.

The procurement of leased land and building space is not subject to state purchasing rules and regulations and, therefore, agencies should work directly with their agency's Lease/Tenant Coordinator, who in turn works with the DFDM, Bureau of Real Estate Management for approval.

Use of State Facilities vs. Renting Private Facilities



Legal Authority

Wis. Stats. 16.70(7); 16.72(3); 16.75(6)(c); 16.84(5); 16.845; 16.8511(2); 16.855; 16.87; 16.88 103.49

Agencies Affected: All, unless otherwise noted

Authorized:

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State facilities will be used for any program where availability and accommodations can support the program. Expenses incurred by a state agency in its use of a state facility are considered interagency transactions. See PRO-504, Grants and Other Non-Procurement Transactions.

Expenses tied to a state agency’s rental of a private space for short-term activities, e.g., a one-day conference, meeting or workshop, are subject to procurement rules and regulations. See PRO-514, Travel and Conference-Related Procurement.

Building Repairs Under Emergency Circumstances

It is common for certain limited trades work to be required as a result of unexpected damage to a space under an emergency circumstance.

In such cases, agencies will first estimate the total cost of the work. If the initial estimate is at or over the limited trades threshold, the agency will contact DFDM to determine if it will be run under Facilities rules. If DFDM declines, the agency will make the purchase(s) under Purchasing rules.

For purchases that do not have existing procurement authority (e.g. through a contract), agencies will consult PRO-503, Emergency Procurement. Work covered under emergency procurement authority will be limited to the work required to be completed immediately to avoid future damage or to mitigate a risk to health, safety and welfare. Competitive processes will be used to address purchases related to replacement or repair work that is not an immediate need.

PROCEDURE:

- I. Use of State Facilities
 - A. Any applicant for use of a state facility is liable to the state for injury to state property and must pay any expenses incurred by its use. The managing authority of a state facility may



Legal Authority

Wis. Stats. 16.70(7); 16.72(3); 16.75(6)(c); 16.84(5); 16.845; 16.8511(2); 16.855; 16.87; 16.88 103.49

Agencies Affected: All, unless otherwise noted

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establish a sum for its use, to be paid into the general fund and credited to the appropriation for the facility's operation.

- B. State facilities have established procedures for obtaining a permit for use. Non-compliance with these procedures may result in a penalty. See the DOA, Building Tenant Manual.

II. Leasing of Space

- A. The review and evaluation of agency space requests is the responsibility of the DFDM, Bureau of Real Estate Management which reviews and approves agency requests, regardless of the dollar amount, for all types of space expected to be leased or to be occupied in a state office building. Review and approval of requests for remodeling of leased space and requests for additional leased space also are handled by this DFDM Bureau.
- B. The DFDM, Bureau of Real Estate Management, is available to answer questions regarding the leasing process and can assist agencies in estimating space costs and space needs. Agency Lease/Tenant Coordinators may call 608-267-2004 or e-mail DOA DFM Leasing (DOADFMLEASING@wisconsin.gov).

III. Delegated Project Management

- A. Projects that are delegated by the DFDM to an agency must adhere to the construction contract procedures unless waived by special instructions or guidelines in conformance with s. 16.8511(2), Wis. Stats.
- B. Moveable equipment, services which meet the limited trades work definition, and commodities that may be purchased in the execution of those limited trades, under such projects, come



Legal Authority

Wis. Stats. 16.70(7); 16.72(3); 16.75(6)(c); 16.84(5); 16.845; 16.8511(2); 16.855; 16.87; 16.88 103.49

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 2/18/2020	Replaces PRO-D-11, D-17, D-21, D-22 Various Dates
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under the jurisdiction of procurement rules and procedures when identified by the DFDM.

- C. Specific to moveable equipment, DFDM rules typically apply to the initial purchase of the equipment when done during new construction (i.e. appliances), but procurement rules apply to replacement equipment and anything the agency considers owned by them and not by DFDM, were the agency to vacate the property.

REFERENCE: Facilities Management [Website](#)
 Facilities Development [Website](#)
 Building Tenant Manual





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Number
PRO-514

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-D-32; 33 Various Dates
Title TRAVEL AND CONFERENCE-RELATED PROCUREMENT		Page 1 of 4

SCOPE: The purpose of this policy is to provide guidance for travel-related purchasing and the procurement procedures for conferences or other similar agency events.

POLICY: When state funds, or funds processed through state accounts are used, procurement rules apply to the purchase of travel for an individual and purchases related to group events such as meetings, trainings and conferences (Group Event). This includes but is not limited to planning and purchasing of meeting rooms, air transportation, lodging, food, beverages and related services, ground transportation, audio visual equipment and other requirements for travel or events.

This policy excludes student-funded athletic travel and student-funded recreational travel.

Uniform Travel Schedule Amounts (UTSA)

In addition to applicable purchasing rules, travel and conference-related expenses are governed by the limits and conditions of the State of Wisconsin Compensation Plan, Section F, UTSA. Employees will also follow all, more stringent, policies and procedures of their agency.

Use of State Resources

State-owned fleet vehicles will be used before the in-state rental car contract(s) whenever possible. State-owned or leased facilities will be used for events whenever possible. See PRO-513, Procurement Considerations in Facilities-Related Projects and Leasing of Space.

- PROCEDURE:**
- I. Use of Travel-Related Contracts
 - A. Employees will first use any existing state or agency contracts for travel agency, vehicle rental or hotel or



Legal Authority

Wis. Stats. 16.001; 16.003(1); 16.70(1) and (3); 16.705; 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

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PRO-514

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conference management services before making off-contract purchases. See PRO-402, Statewide Contracts: Standards and Utilization.

- B. When using a contract that was competitively bid, an agency does not need to conduct any additional competitive bidding processes for travel spend.

II. Purchasing for Individual Travel

- A. Where contracts are not available and/or do not meet the business needs of the agency, employees will use best judgment in selecting a travel services provider and/or to make hotel arrangements.
- B. When employees are traveling within the state, properties meeting the business needs of the traveler will be contacted directly. The contracted travel agencies will not be used to reserve in-state hotels.
- C. Employees may book out-of-state hotel rooms through a contracted travel agency, a non-contract travel agency or directly with a hotel property. When using a non-contract travel agency, employees are encouraged to contact small or supplier-diverse businesses. See PRO-606, Supplier Diversity Policy and Reporting.
- D. Payments for individual travel arrangements do not require the use of a purchase order. Use of a state-issued purchasing or travel card is acceptable. See PRO-408, Purchase Requisitions, Orders and Methods of Payment.

III. Group Event Management and Bidding Thresholds



Legal Authority

Wis. Stats. 16.001; 16.003(1); 16.70(1) and (3); 16.705; 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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Number
PRO-514

Section EXCEPTIONS, WAIVERS AND SPECIAL HANDLING	Effective 9/16/19	Replaces PRO-D-32; 33 Various Dates
Title TRAVEL AND CONFERENCE-RELATED PROCUREMENT		Page 3 of 4

- A. When an agency is planning a Group Event, prior to entering into any agreements, it will consider the total cost of all components of the event when determining which competitive bidding process is applicable. See PRO-101, Procurement Definitions and Thresholds.
- B. Group Events sponsored by state agencies primarily for the participation of government employees will be conducted at state contracted hotels or public facilities whenever possible, provided the property meets the business needs of the agency taking factors into account such as fuel consumption for transportation; services at the most economical cost to the state; and facilitate public attendance as necessary.
- C. The agency will define the requirements for the Event including but not limited to: location, dates, capacity, meeting room(s), exhibit and/or reception space, meals, audio visual needs, computer and connectivity, setup, number of attendees, number of guest rooms needed and other event related equipment and services.
- D. The agency will ensure that all expenses are allowable and appropriate for the funding source and in accordance with the policy on meetings and meals per UTSA and the Wisconsin Accounting Manual.
- E. The agency will ensure compliance with PRO-401, Basic Contract Eligibility.
- F. The selected facility must be in compliance with applicable ADA standards.



Legal Authority

Wis. Stats. 16.001; 16.003(1); 16.70(1) and (3); 16.705; 16.71

Agencies Affected: All, unless otherwise noted

Authorized:

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IV. Group Event Contracts

- A. Careful consideration should be given to terms and conditions that are unique to the event booking of facilities and hotels. At a minimum, agencies will ensure that any agreement with a hotel or other event provider adheres to standard contract terms; see PRO-404, Standard Terms and Conditions.
- B. Payment for Group Events will be made using a purchase order. Payments may also be made using a purchasing card if it meets the threshold limits and other applicable policies for use of the card. Direct charges will not be used to pay for a Group Event.



600-Series: Administrative Policy

This section of the Manual is related to general administrative policies affecting State procurement and purchasing operations.

PRO-601 Legal and Public Notices

PRO-602 Non-Collusion and Disclosure of Conflicts of Interest

PRO-603 Reciprocity Law and Handling State Preferences

PRO-604 World Trade Organization Government Procurement Agreement

PRO-605 American-made Materials Policy

PRO-606 Supplier Diversity Policy and Reporting

PRO-607 Risk Management Considerations in Procurement: Insurance, Bonds and Sureties

PRO-608 Employee-Employer Issues: Common Law Factors and Contracting with State Employees

PRO-609 Purchasing Products with Safety Data Sheets, and Products Containing Phosphorus



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Number
PRO-601

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-6 1-12-12
Title LEGAL AND PUBLIC NOTICES	Page 1 of 3	

SCOPE: The purpose of this policy is to establish the required procedure for posting public and legal notices for certain procurement transactions.

POLICY: Any solicitation over the official sealed bid threshold, the signage threshold, or Request for Proposal (RFP) threshold will be advertised. Any request to waive bidding requirements over the noncompetitive negotiation (sole source) or general waiver threshold(s) will be advertised. See PRO-101, Procurement Definitions and Thresholds.

A public notice is an advertisement of a procurement on the official designated website, publicnotices.wi.gov.

A legal notice is an advertisement in the official state newspaper.

Agencies must use prescribed systems for posting solicitations. These systems automatically will generate a public notice on the designated website which satisfies the advertising requirement. See PRO-103, Procurement Systems and Bidders Lists.

Because agencies do not post noncompetitive negotiations (sole source) and general waivers on required procurement systems, the agency will use the public notices website directly to generate the notice.

- PROCEDURE:**
- I. Required Elements of a Notice
 - A. For bids, the notice will include a clear description of what is to be purchased, any required bonds or sureties, and date and time of any public opening.
 - B. For RFPs, the notice will include a clear description of what is to be purchased, any required bonds or sureties, and a clear



Legal Authority

Wis. Stats. 16.75(1)(b); 16.75(2m)(b); 16.75(5);
16.75(6)(c); 985.01(1)(2)(3); 985.04; 985.07(2); 985.12
Wis. Adm. Code Chapter Adm 10.08(2)

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State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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PRO-601

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-6 1-12-12
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indication that an RFP process (rather than a bid process) is being used.

- C. For waivers, the notice will include a clear description of what is to be purchased, the intent to make an award from a private source without soliciting bids/proposals, the amount, and a date upon which the contract or purchase order is to be awarded. Notices for sole source waivers will also include an identification of the private source being used.

II. Timing of Public Notices

- A. For bids and RFPs, there will be a minimum of seven days between the posting on required system(s) and the date submissions are due. The notice will remain on the website until the date submissions are due.
- B. For sole source or general waivers, the agency will obtain approvals as prescribed by PRO-210, Request for Purchasing Authority (RPA) Policy and Procedure. The public notice will be placed and a copy will be attached to RPA requests submitted to the Bureau, however, the contract may not be awarded or the purchase order issued until approval is received.
- C. For waivers, there will be a minimum of seven days between the posting on the Internet and the date on which the contract will be awarded or the purchase order will be issued.
- D. If additional vendors indicate an interest in bidding or proposing as a result of the waiver notice, the agency will use a competitive process. See PRO-301, Competitive Bidding Policy.



Legal Authority

Wis. Stats. 16.75(1)(b); 16.75(2m)(b); 16.75(5);
16.75(6)(c); 985.01(1)(2)(3); 985.04; 985.07(2); 985.12
Wis. Adm. Code Chapter Adm 10.08(2)

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State Bureau of Procurement

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III. Legal Notices

- A. In addition to the public notice, the agency may also advertise a legal notice. Procedures for placing legal notices in the official state newspaper are published using the contract for certified newspapers. In addition, these legal notices may be placed in other media selected by the Bureau or authorized agencies.
- B. Legal notices for official sealed bids or RFPs appear once each week for a minimum of two weeks. There will be a minimum of seven days between publication of the first notice and the last notice and between the last notice and the date submissions are due.
- C. Legal notices may be combined according to common date.

IV. Documentation of Notices

- A. For a public notice, the agency will retain a copy of the posting from the website.
- B. For a legal notice, the agency will request and pay for affidavits of publication of legal notices as the agency deems appropriate to meet statutory and agency requirements. If an affidavit is not requested, the agency will have on file tear sheets from the newspaper or actual notices taken from the newspaper as documentation the legal notice requirements have been met.



Legal Authority

Wis. Stats. 16.75(1)(b); 16.75(2m)(b); 16.75(5);
16.75(6)(c); 985.01(1)(2)(3); 985.04; 985.07(2); 985.12
Wis. Adm. Code Chapter Adm 10.08(2)

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Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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Number
PRO-602

Section	Effective	Replaces
ADMINISTRATIVE POLICY	9/16/19	PRO-C-4, C-28 Various
Title		Page
NON-COLLUSION AND DISCLOSURE OF CONFLICTS OF INTEREST		1 of 4

SCOPE: The purpose of this policy is to establish requirements related to prohibited collusion activity and the need to disclose conflicts of interest in state contracting.

POLICY: To ensure fair and transparent competitive procurements, the state requires attestations to be included with all bids and proposals that no collusion has occurred between bidders and that any conflicts of interest have been disclosed. To ensure compliance with these rules, the State Bureau of Procurement (Bureau), state agencies, and bidders/proposers have certain responsibilities as outlined herein.

Non-Collusion

Bidders and proposers must certify that they have not directly or indirectly participated in collusion or otherwise taken any action in restraint of free competition. To simplify the certification process, the Bureau has provided standard non-collusion declarations on required bidding forms and as such, by signing and submitting a bid or proposal, such declarations are made a part of the response and become automatic with the bidder/proposer's signature. Notarization is not required.

Disclosure of Conflicts of Interest

Bidders/proposers must disclose potential conflicts of interest as prescribed by section II herein. No disclosure is required if state or federal law prohibits the disclosure, or the relationship does not create a conflict of interest and loss of independence, or the disclosure is improper under standards of professional conduct adopted by, or administrative rules of, the state agency or agency of the judicial branch that is responsible for regulating or licensing the occupational group of which the bidder or proposer is a member.



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
16.77(2); 19.45(6);
Wis. Adm. Code Chapter Adm 10.10

Authorized:

Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-4, C-28 Various
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All contracts will provide that if the bidder/proposer failed to disclose, the contract may be declared void by the Bureau and any amounts paid under the contract may be recovered per §16.77 (2), Wis. Stats. See PRO-106, Prior Approval of Purchases/Unauthorized Purchases.

Independence of Relationship

In addition to non-collusion and disclosure requirements, all contractual services procurements must also meet the requirements of independence of relationship, as provided in PRO-204, Contractual Services Procurement.

PROCEDURE:

- I. Agency Responsibilities
 - A. Agencies will use forms, required for use by the Bureau, for solicitation of bids and proposals. By using required forms, agencies ensure they are meeting their requirement to include non-collusion and disclosure provisions in their solicitations.
 - B. Non-collusion certification is contained in the Bidder Required Form, DOA-3832. Disclosure provisions are contained in the State Standard Terms and Conditions, form DOA-3054 and Supplemental Standard Terms and Conditions for Services, form DOA-3681.
 - C. The procuring agency reviews bidder/proposer statements and prepares a written determination whether the information disclosed interferes with fair competition and whether, despite the information disclosed, the awarding of the contract to the bidder or proposer will be in the best interest of the state.

II. Bidder/Proposer Responsibilities



Legal Authority
 Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
 16.77(2); 19.45(6);
 Wis. Adm. Code Chapter Adm 10.10

Authorized:
 Sara Redford, Director
 State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-602

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-4, C-28 Various
Title NON-COLLUSION AND DISCLOSURE OF CONFLICTS OF INTEREST		Page 3 of 4

- A. Any bidder or proposer, other than a political subdivision of the state, includes with the bid or proposal a written statement that discloses and provides relevant information on any of the following conditions should they exist:
 - 1. An officer or an employee of the contracting or procuring agency, or his or her immediate family owns or controls, directly or indirectly, at least 10 percent of the outstanding equity, voting rights, or outstanding indebtedness, or is otherwise associated with the bidder or proposer;
 - 2. The bidder or proposer currently employs, or has offered or agreed to employ, any person who is or has been an officer or employee of the contracting or procuring agency within the 12-month period preceding the bid or proposal;
 - 3. The bidder or proposer agree as part of the contract for services that during performance of the contract, the contractor will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the contractor will not be adverse to the interests of the state.
- B. If none of the above conditions exist, the bidder/proposer includes, with its response, a written statement to that effect.

III. Bureau Responsibilities



Legal Authority
 Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
 16.77(2); 19.45(6);
 Wis. Adm. Code Chapter Adm 10.10

Authorized:
 Sara Redford, Director
 State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



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Department of Administration, State Bureau of Procurement

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PRO-602

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- A. Upon request, the Bureau will review the determination by the contracting or procuring agency. If the Bureau does not concur in that determination, the contract cannot be approved.



Legal Authority

Wis. Stats. 16.705(5); 16.71; 16.72(1)(a), (b), (c); 16.72(4);
16.77(2); 19.45(6);
Wis. Adm. Code Chapter Adm 10.10

Authorized:
Sara Redford, Director
State Bureau of Procurement

Agencies Affected: All, unless otherwise noted



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-603

Section	Effective	Replaces
ADMINISTRATIVE POLICY	9/16/19	PRO-C-20 5-26-04
Title		Page
RECIPROCITY LAW, AND HANDLING STATE PREFERENCES		1 of 3

SCOPE: The purpose of this policy is to establish official procedure for handling state preferences in procurement activities.

POLICY: Per §16.75(1)(a) 2, Wis. Stats, if a vendor is not a Wisconsin business but is competing with a Wisconsin business in a procurement event, the agency will apply a penalty to the non-Wisconsin business if they are domiciled in a state, nation or subdivision thereof that applies a preference for their businesses.

A "Wisconsin business" is determined by Wis. Adm. Rule Tax 2.82. See PRO-101, Procurement Definitions and Thresholds.

The agency will apply the penalty only when the result will benefit a Wisconsin business. The penalty will not be applied if it only changes which non-Wisconsin business receives the award. The penalty could be applied to more than one non-Wisconsin business if the calculation would cause the award to be made to a Wisconsin business.

- PROCEDURE:**
- I. In-State Preferences
 - A. If the apparent low bidder is not a Wisconsin business and the state in which the bidder resides grants an in-state preference in making governmental purchases, the agency will give a preference to a Wisconsin business, if any, by penalizing the non-Wisconsin business when awarding an order or contract.
 - B. The agency will apply the penalty at the same percentage preference as is applied by the bidder's home state.
 - C. In the case of printing, contracts will not be awarded to printing firms located in another state if the laws of that state would penalize a Wisconsin printer in any way.
 - D. For bids, the following formula will be used:



Legal Authority

Wis. Stats. 16.75(1)(a) 2; 35.012
Wis. Adm. Rule Tax 2.82

Agencies Affected: All, plus legislative and judicial

Authorized:

Sara Redford, Director
State Bureau of Procurement



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Section	Effective	Replaces
ADMINISTRATIVE POLICY	9/16/19	PRO-C-20 5-26-04
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RECIPROCITY LAW, AND HANDLING STATE PREFERENCES		2 of 3

$$\begin{aligned}
 (\text{Lowest Responsive Non-Wisconsin Bid} \times 1. \text{ Preference}) &= \$ \underline{\hspace{2cm}} \\
 \text{Minus (Lowest Wisconsin Qualified Bid)} &= \$ \underline{\hspace{2cm}} \\
 (\text{Balance}) &= \$ \underline{\hspace{2cm}}
 \end{aligned}$$

- E. When the balance of the formula in I, D is a positive number, award is made to the lowest Wisconsin qualified bid. Award is made at the cost bid. When the balance is 0, award is made according to tied bid protocols as provided in PRO-305, Basis for Bid Awards. When the balance is a negative number, award is made to the lowest responsive non-Wisconsin bidder.

For example, the following bids are received:

<p>Bidder Quote (if Alaska gives a 5% preference to Alaska-based bidders)</p> <p>Alaska \$100 (\$100 x 1.05) = \$105 Wisconsin \$104 - \$104 = \$ 1</p> <p>The award goes to the Wisconsin bidder.</p>	<p>Bidder Quote (if Hawaii gives a 3% preference to Hawaii-based bidders)</p> <p>Hawaii \$100 (\$100 x 1.03) = \$103 Wisconsin \$104 - \$104 = \$ -1</p> <p>The award goes to the Hawaii bidder.</p>
--	--

- F. On proposals where award is points-based, use the formula for RFPs from PRO-606, Supplier Diversity Policy and Reporting.

II. Supplier Diversity Preferences and Reciprocity

- A. A certified minority business enterprise and/or disabled veteran owned business from a state with an in-state preference may receive the supplier diversity preference if the in-state preference from their home state is 5% or less. The percentage preference applied to the Wisconsin transaction is the difference between the 5% and the in-state preference.



Legal Authority

Wis. Stats. 16.75(1)(a) 2; 35.012
Wis. Adm. Rule Tax 2.82

Agencies Affected: All, plus legislative and judicial

Authorized:

Sara Redford, Director
State Bureau of Procurement



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B. When application of the preference results in an out-of-state bidder obtaining the award over an in-state bidder, the agency will notify the Bureau before issuing the notice of award/intent to award.

III. International Bidders

A. Reciprocity rules apply to awards to foreign businesses as well. The agency will research the preference practices of the entity as the situations arise. See PRO-604, World Trade Organization Government Procurement Agreement.

IV. Recordkeeping and Resources

A. The agency will document basis for award in the bid file when reciprocity rules impact the award determination.

B. The National Association of State Procurement Officials gathers information on in-state preference practices of all states. For details consult the following Web site:

<https://www.naspo.org/reciprocity1>



Legal Authority

Wis. Stats. 16.75(1)(a) 2; 35.012
Wis. Adm. Rule Tax 2.82

Agencies Affected: All, plus legislative and judicial

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-604

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-37 1-1-12
Title WORLD TRADE ORGANIZATION GOVERNMENT PROCUREMENT AGREEMENT		Page 1 of 1

SCOPE: The purpose of this policy is to establish official procedure for handling contract awards which may be impacted by the international World Trade Organization (WTO) Government Procurement Agreement (GPA).

POLICY: Under the WTOGPA, member states are required to treat countries that are members of the agreement equally in every respect. This means that preferences in favor of the United States will be eliminated from contracts which have met three tests.

- 1) The entity must be a member state to the WTOGPA. For a list of current members, see the WTO Parties website.
- 2) The procurement must be greater than or equal to the WTOGPA thresholds. See PRO-101, Procurement Definitions and Thresholds.
- 3) The procurement cannot be exempted (e.g. procurement which has an objective of promoting general environmental quality in the state; printing; certain programs promoting the development of distressed areas and businesses; etc.)

It also means that the countries themselves must be treated equally; no preference in favor of one of the countries over another can exist.

PROCEDURE: I. State Bureau of Procurement Consultation

The tests, conditions and members to the WTOGPA are subject to change. To determine if a procurement is subject to the conditions of the WTOGPA, or to handle questions as it relates to the applicability of the WTOGPA as it compares to other state-specific procurement requirements, agencies will consult the Bureau.



Legal Authority
Wis. Stats. 16.71

Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-605

Section	Effective	Replaces
ADMINISTRATIVE POLICY	9/16/19	PRO-C-26 9-1-17
Title		Page
AMERICAN-MADE MATERIALS POLICY		1 of 4

SCOPE: The purpose of this policy is to establish preference for the purchase of American-made materials in certain circumstances, exemptions to American-made, and official procedure to ensure compliance.

POLICY: Wisconsin statutes provide that the state will purchase materials which are manufactured to the greatest extent in the United States (US) when all other factors are substantially equal. Preference for American-made materials applies to all state purchases regardless of dollar amount.

“Substantially equal” refers to a tied bid or price quotation (for purchases lower than competitive bidding thresholds). For guidance on handling tied bids, see PRO-305, Basis for Bid Awards.

"Manufactured in the US" means that materials are manufactured in whole or in substantial part within the US, or that the majority of the component parts thereof were manufactured in whole or in substantial part in the US.

For additional terms applicable to this policy, see PRO-101, Procurement Definitions and Thresholds.

Wisconsin statutes also require agencies to write specifications to permit the purchase of materials manufactured in the US to the greatest extent possible.

Materials and Goods vs. Services

This policy applies to the purchase of goods/materials only. See PRO-204, Contractual Services Procurement, for separate rules related to services being performed in the United States.

Exemptions

The following types of purchases are excluded from this policy:



Legal Authority

Wis. Stats. 16.754
Wis. Adm. Code Chapter Adm 7.07

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-605

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-26 9-1-17
Title AMERICAN-MADE MATERIALS POLICY		Page 2 of 4

- Purchases of materials for commercial resale.
- Purchases of material for use in the production of goods for commercial resale.
- Purchases of stationery and printing materials.

If the State Bureau of Procurement or its delegated agents determine that materials involved are not manufactured in the US in sufficient or reasonably available quantities, or the quality of the materials is substantially less than the quality of similar available materials manufactured outside the US, those purchases are also exempt.

PROCEDURE:

I. Order of Preferences

This policy applies when there are no other award methods or preferences that apply first. Agencies will use other applicable award methods, over this policy, in the following circumstances:

- A. In the competitive negotiation (i.e. Request for Proposals (RFP)) process, agencies have additional award considerations that can be used to break a possible score “tie”. Those tools will be exhausted, as applicable, before this policy is used to determine an RFP award. See PRO-308, Basis of Award for Competitive Negotiation (RFP).
- B. Situations in which rules of reciprocity apply; see PRO-603, Reciprocity Law and Handling State Preferences.
- C. Sole source and general waivers of bidding; see PRO-501, Waiver of Bidding Process.
- D. Collective purchases; see PRO-502, Collaborative Contracting: Piggybacking and the Use of Contracts with Other Authorities.



Legal Authority

Wis. Stats. 16.754
Wis. Adm. Code Chapter Adm 7.07

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

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E. Emergency procurements; see PRO-503, Emergency Procurement.

II. Specification, Solicitation Development

A. In developing specifications for materials, requirements will be written to the extent possible so as to ensure the purchase of materials manufactured in the United States.

B. In developing standards and specifications to define materials required, ensure that the broadest possible parameters consistent with performance criteria are used, so as not to exclude American-made materials from consideration. See PRO-202, Specifications and Standards.

C. Indicate in the request for bid or request for proposal package that a preference will be given to materials which are manufactured to the greatest extent in the United States using forms, required for use by the Bureau, for solicitation of bids and proposals. By using required forms, agencies ensure they are meeting their requirement to include American-made materials preference in their solicitations.

American-made certification is contained in the Bidder Required Form, DOA-3832.

D. For purchases valued below competitive bidding thresholds, agencies will use the certification statement from DOA-3832 or language substantially similar in order to address American-made materials requirements.

III. Award Determinations



Legal Authority

Wis. Stats. 16.754
Wis. Adm. Code Chapter Adm 7.07

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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AMERICAN-MADE MATERIALS POLICY		4 of 4

- A. In determining United States origin between materials in the final selection process of a procurement, 51% establishes a majority, and the higher percentage of components, based on cost, establishes substantiality between competing materials.
- B. Any time that a material is purchased that is not American-made, in place of a substantially lower-priced American-made material, documentation of the transaction and the decision-making process will be maintained by the procuring agency.

IV. WTOGPA or American-Made

- A. When making an award on a solicitation that involves a member country under the World Trade Organization Government Procurement Agreement (WTOGPA), and has American-made considerations, the agency will consult the Bureau.



Legal Authority

Wis. Stats. 16.754
Wis. Adm. Code Chapter Adm 7.07

Agencies Affected: All, unless otherwise noted

Authorized:
Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

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Number
PRO-606

Section	Effective	Replaces
ADMINISTRATIVE POLICY	DATE	PRO-D-1, D-9, D-10, D-12, D-35, G-2, G-3 Various
Title	Page	
SUPPLIER DIVERSITY POLICY AND REPORTING	1 of 6	

SCOPE: The scope of this policy is to define state procurement spending goals with certain diverse suppliers, prescribe official procedure for applying preferences, and establish agency reporting requirements.

POLICY: The State of Wisconsin is committed to supplier diversity. State agencies will engage, encourage, and remove undue impediments, to promote participation of diverse suppliers in state purchasing.

The Department of Administration, Wisconsin Supplier Diversity Program (WISDP) certifies minority-owned business enterprises (MBE), disabled veteran-owned businesses (DVB) and woman-owned businesses (WBE) as defined in applicable statutes. See PRO-101, Procurement Definitions and Thresholds. A listing of businesses certified by WISDP is posted on the Supplier Diversity Program website.

State agencies will attempt to ensure that 5% of the total amount expended in state purchasing in each fiscal year is paid to MBEs and that 1% is paid to DVBs.

In furtherance of these goals, state agencies may apply a 5% MBE/DVB preference (referred to herein as the "MBE/DVB preference") in competitive solicitations. For the purposes of this policy, a qualified bid is a responsible bid or proposal submitted by a WISDP-certified MBE or DVB. See PRO-305, Basis for Bid Awards and PRO-308, Basis of Award for Competitive Negotiation (RFP).

For agencies using the competitive process to award contracts funded by approved federal grants or programs with additional or modified supplier diversity stipulations for the resulting contract as a condition of receiving funds, the agency will include those requirements and terms in the solicitation(s).



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

Authorized:
Cheryl Edgington, Director
State Bureau of Procurement



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ADMINISTRATIVE POLICY	DATE	PRO-D-1, D-9, D-10, D-12, D-35, G-2, G-3 Various
Title		Page
SUPPLIER DIVERSITY POLICY AND REPORTING		2 of 6

The MBE/DVB preference does not apply to the procurement of printing or stationery. See PRO-505, Print Procurement Policy and Procedure.

PROCEDURE:

I. Supplier Engagement

A. Only MBEs and DVBs certified by WISDP are eligible for the preferences outlined herein. However, state agencies will encourage the participation of all diverse suppliers (e.g. minority-owned, disabled veteran-owned, woman-owned, small and veteran-owned) in the state purchasing program. Specifically, the Department will:

1. Maintain the state's official bidders list which includes but is not limited to diverse suppliers. See PRO-103, Procurement Systems and Bidders Lists.
2. Develop ways of simplifying specifications and terms so that they will not impose unnecessary administrative burdens on diverse businesses. See PRO-202, Specifications and Standards and PRO-404, Standard Terms and Conditions.
3. Assist diverse businesses in complying with the state's bidding and RFP procedures to the extent no bidder is treated unfairly or inequitably.
4. Using required procurement systems and the statewide bidders list, notify diverse businesses of bid and proposal opportunities.

II. Application of Qualified Bids



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

Authorized:

Cheryl Edgington, Director
State Bureau of Procurement



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SUPPLIER DIVERSITY POLICY AND REPORTING	3 of 6	

- A. State agencies may award contract(s) to certified MBE/DVBs when a qualified bid is not more than 5% higher than the apparent low bid or the proposal is no more than 5% lower than the apparent high point score. A contract award based on application of the MBE/DVB preference may only be made if the business is certified at the time of the bid/proposal opening.

III. Qualified Bid Formula

To achieve consistency in calculating qualified bids/proposals, the following formulas will be used:

- A. On competitive bids

$$\begin{array}{rcl}
 \text{(Apparent low non-MBE/DVB bid(s) x 1.05)} & = & \$ \underline{\hspace{2cm}} \\
 \text{Minus (Lowest MBE/DVB bid(s))} & = & \$ \underline{\hspace{2cm}} \\
 \text{(Balance)} & = & \$ \underline{\hspace{2cm}}
 \end{array}$$

When the balance is a positive number, or 0, award may be made to the lowest MBE/DVB qualified bid. Award is made at the cost bid.

- B. On bids for percentages off list price

- 1. For bids with percentages off list price, the discounts will be converted to the amounts to be paid. For example, the following bids are received:

Apparent low non-MBE/DVB bid(s) = 40% off list price
 Lowest MBE/DVB bid(s) = 38% off list price



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

Authorized:

Cheryl Edgington, Director
 State Bureau of Procurement



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Conversion to the amount to be paid:

Apparent non-MBE/DVB low bid(s) = 60% of the list price
 Lowest MBE/DVB bid(s) = 62% of the list price

Application of formula:

(Apparent non-MBE/DVB low bid(s) (60%) x 1.05) = 63%
 Minus (Lowest MBE/DVB bid(s)) = 62%
 (Balance) = 1%

Result: Since the balance is a positive number, award may be made to the lowest MBE/DVB qualified bid.

2. Therefore, the formula to be used when calculating preferences for bids for percentages off list price is:

(Apparent low non-MBE/DVB bid % of list price x 1.05) = ___%
 Minus (Lowest MBE/DVB bid % of list price) = ___%
 (Balance) = ___%

When the balance is a positive number, or 0, award may be made to the lowest qualified bid.

C. On proposals (competitive negotiations)

1. In evaluating a qualified proposal against an apparent high point scoring proposal, the following formula will be used:

(Apparent high MBE/DVB qualified proposal(s) point total x 1.05) = _____
 Minus(High non-MBE/DVB proposal(s) point total) = _____



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

Authorized:

Cheryl Edgington, Director
State Bureau of Procurement



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(Balance) = _____

2. When the balance is a positive number, or 0, award may be made to the MBE/DVB proposer.

IV. Reporting

- A. By the 15th of each month, state agencies will report spend activities with certified MBEs and DVBs to WISDP using the online reporting tool at wisdpreporting.wi.gov.
- B. Reports are prepared by each agency or sub-unit. Sub-unit reports are forwarded to the agency's central purchasing office where information is consolidated prior to submission.
- C. State agencies will advise contractors of their responsibility to report any subcontracting activity with certified MBEs or DVBs under a state contract.
- D. On any state contract which involves commodities provided or services performed by subcontractors that are certified MBEs or DVBs, the amount paid will be reported by the contractor to the procuring agency. This amount will be included in agency reports.
- E. Annual Report

The Department submits an annual report to the Governor and the chief clerk of each house of the legislature on the total amounts and percentage expended with MBEs and DVBs.



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

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State Bureau of Procurement



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V. Veteran-Owned and Small Businesses

- A. To encourage the participation of small and veteran-owned business in furtherance of the actions outlined in section I, the Department will seek cooperation and assistance as applicable from the Wisconsin Department of Safety and Professional Services and the Wisconsin Department of Veterans Affairs (DVA).
- B. DVA certifies veteran-owned businesses. A listing of businesses certified by DVA, and additional information about certification, is posted on the Veteran-Owned Business Certification website.

VI. Council on Small, Veteran-Owned and Minority Business Opportunities

As requested by the Council, the Bureau will submit reports related to the participation of diverse businesses in the state's purchasing program.



Legal Authority

Wis. Stats. 16.705(3m); 560.036; 15.107(2); 16.75(4) (a-d); 16.755; 16.283(1)(b)(3); 45.35(5); 16.75(3m) (a)1, (b)2,3, (c)

Agencies Affected: All, unless otherwise noted

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Cheryl Edgington, Director
State Bureau of Procurement



State Procurement Manual

Department of Administration, State Bureau of Procurement

Number
PRO-607

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-19, D-13, D-34 Various
Title RISK MANAGEMENT CONSIDERATIONS IN PROCUREMENT: INSURANCE, BONDS AND SURETIES		Page 1 of 8

SCOPE: The purpose of this policy is to establish requirements and official procedure for risk management-related components of state contracting, including the procurement of insurance and bonds; certification documentation standards; and establishing any bond or surety in a solicitation/contract.

POLICY: When the state contracts with a supplier, their services necessarily include an inherent liability risk, or cost of defense, to the State of Wisconsin. There are various risk-related factors agencies must take into consideration in procurement activities.

Standard and High-Risk Insurance Coverage in Contracts

Agencies will prescribe either standard, or high-risk, insurance coverage requirements in state contracts as provided herein.

A high-risk service procurement means a contract, procurement or purchase that significantly increases the possibility of loss or exposure to loss to the State of Wisconsin, its agencies, employees, agents or officers from a third party. See Appendix A: Insurance Coverage Limits Requirements.

Some procurements have varying insurance requirements. An agency having insurance questions about procurement situations should contact its agency risk manager or the State Bureau of Risk Management (Risk Management).

Workers compensation insurance coverage is required by statute for commodity and standard service procurements. The state may require such coverage even when the number of employees is fewer than that for which the statutes require workers compensation insurance.

Certificates of Insurance

Depending upon the level of risk the contract presents, agencies may require submittal of a current certificate of insurance.



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
Wis. Adm. Code Chapter Adm 7.08

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



State Procurement Manual

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Number
PRO-607

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-C-19, D-13, D-34 Various
Title RISK MANAGEMENT CONSIDERATIONS IN PROCUREMENT: INSURANCE, BONDS AND SURETIES		Page 2 of 8

When an agency makes a purchase through a statewide contract issued by the Bureau, the Bureau will have obtained any required certificate of insurance. See PRO-402, Statewide Contracts: Standards and Utilization.

Bonds and Sureties

The State Bureau of Procurement (Bureau), or an agency operating under delegated authority, may require sureties from bidders or contractors when such action is deemed to be in the best interests of the state.

A surety is a guarantee that a supplier will perform or complete some specific act or process. Sureties will be justified, will not be required as a matter of course, and will not be used to restrict competition.

Procurement of Insurance and Bonds

Insurance and bonds are commodity procurements. Risk Management will approve purchases of insurance and bonds, regardless of the dollar amount.

PROCEDURE:

- I. Insurance Coverage: Standard Goods and Services Contracts
 - A. The agency will specify, in the request for bid/proposal or other procurement/purchasing document, and resulting contracts regardless of the value of the contract or the type of procurement:
 - 1. "Standard insurance limits", as stated in Appendix A. The agency may require higher coverage limits for an individual procurement if the agency's risk manager approves.
 - 2. Require issuance of the vendor's insurance policy with a minimum thirty (30) day cancellation notice, by an insurance company licensed to do business in the State of



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
Wis. Adm. Code Chapter Adm 7.08

Agencies Affected: All, unless otherwise noted

Authorized:

Sara Redford, Director
State Bureau of Procurement



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Wisconsin, with a minimum AM Best rating of A-, and the signature of an authorized agent.

- B. Including the state Standard Terms and Conditions (form DOA-3054) satisfies I, A. In the case of a waiver of bidding, the agency must specify the insurance requirements with the purchase order or in the contract. See PRO-404, Standard Terms and Conditions.
- C. The "standard insurance limits" are minimum limits of coverage; however, an agency may request lower limits for unique agency procurements, if pre-approval is secured from that agency's risk manager (when one exists) and final approval is secured from Risk Management.
- D. The requirement for workers compensation insurance applies to every contract, even if the vendor has fewer than three (3) employees. The state may require such coverage even when the number of employees is fewer than that for which the statutes require workers compensation insurance.
- E. The agency need not obtain a copy of the vendor's certificate of insurance; agencies may request proof of insurance as needed.

III. Insurance Coverage: High-Risk Contracts

- A. High risk services include but are not limited to the following; the procuring agency will review Appendix A and specify the appropriate insurance amount:
 - Air Charter
 - Ambulance Service
 - Asbestos Abatement



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
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- Building Remodeling and Construction
- Custodial Services
- Daycare
- Elevator Maintenance
- Food Service
- High Risk Entertainment/Speakers
- Medical Services, including Optical and Laboratory
- Recreational Services
- Refuse Transportation and Disposal
- Security
- Tower Inspection and Maintenance Services
- Transportation Services

- B. The agency may specify higher limits for one of the services listed above, or on a high-risk service not listed above, with approval of the agency’s risk manager or, when no agency risk manager exists, Risk Management.
- C. Agencies must obtain a certificate of insurance for high-risk contracts. By obtaining an appropriate certificate of insurance and maintaining a current certificate on file for a high-risk procurement, the state has evidence that insurance has been obtained that transfers risks associated with the business relationship with the supplier from the state to the insurer.
- D. If the supplier fails to provide a certificate of insurance that is consistent with the contract requirements, the agency may cancel the contract or award and make another award.

III. Certificate of Insurance

Where an agency or this policy requires a certificate of insurance, it will be completed as follows:



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
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- A. The vendor must provide a copy of the certificate of insurance prior to the commencement of the contract to the individual designated by the procuring agency.
- B. The agency reviews to ensure the certificate contains:
 - 1. Name of the insured, the name and the address of the insurance agency, the type(s) of insurance, the policy number(s), the effective date(s), the expiration date(s), name and address of the certificate holder, and the signature of the representative authorizing the policy.
 - 2. Names the State of Wisconsin, its officers, employees, and agents, as an additional insured.
 - 3. Specifies at least the limits of insurance coverage required for the procurement.
 - 4. Provides for a minimum of a thirty (30) day cancellation notice to the procuring agency.
- C. The agency must also verify that the insurance provider is authorized to do business in the State of Wisconsin and has an A.M. Best rating of A- or better, by the Wisconsin Office of the Commissioner of Insurance, Bureau of Financial Examinations.
- D. When an agency makes a purchase through a contract established by another agency (piggybacking), the agency that originally developed and established the contract is responsible for obtaining any required certificate of insurance.
- E. If the supplier is self-insured, they must provide financial records that demonstrate financial ability to cover losses up to



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
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the limits of the required insurance that are acceptable to the agency's risk manager. The state will notify the vendor of the specific financial records that must be provided.

IV. Bonds and Sureties

- A. Sureties may consist of cash on deposit with an agency, certified or cashier's check, irrevocable letter of credit, or a bond issued by a bonding or insurance company authorized to do business in Wisconsin.
- B. Basic types of sureties include but are not limited to:
 1. A bid surety required to be submitted with a bid to ensure that a bidder will accept any resulting contract award.
 2. A payment surety required in conjunction with the award of a contract that assures that a contractor will pay the valid bills of subcontractors who perform work under the prime contract to prevent the state from being subject to a lien action by the subcontractor.
 3. A performance surety required to ensure that a contractor will perform to the requirements of a contract.
- C. Justification for requiring sureties can include:
 1. A history of nonperformance on state contracts.
 2. A valid need for bid sureties, such as when failure to sign a contract may result in serious harm or damage to state operations.



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
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- 3. Situations where nonperformance of a contract can result in grievous harm or damages to state operations or where the need for on-time delivery of a component can negatively affect a broad project.
 - D. If sureties are required on a solicitation, the requirement will be applied to all bidders and contractors. In exceptional cases, the Bureau may approve the imposition of surety requirements on an individual bidder when such approval is necessary to permit them to receive an award where performance history would otherwise preclude such action.
 - E. Sureties may not be amended as the result of an amendment to a solicitation or contract. New sureties will be called for and provided. Since a surety is a guarantee of performance of a specific act, an amendment that changes the act on which the surety is provided, by nature, voids the original surety.
- V. State Risk Management Approvals of Insurance/Bond Procurements
 - A. Prior to purchasing insurance, including bonds, the agency will obtain approval from State Risk Management. The agency will consult with State Risk Management on any change, deletion or addition of coverage. The State Bureau of Procurement will fulfill this requirement on the agency's behalf for nondelegated (i.e., transactions handled by the Bureau) insurance/bonds procurements.



Legal Authority

Wis. Stats. 16.705(2); 16.72(2); 16.75(5); 16.865(5)
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PRO-608

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-I-11, I-12 Various
Title EMPLOYER-EMPLOYEE ISSUES: COMMON LAW FACTORS AND CONTRACTING WITH STATE EMPLOYEES		Page 1 of 3

SCOPE: The purpose of this policy is to establish the importance of avoiding employer-employee relationships in state contracting, and to establish official procedure when contracting with a state employee.

POLICY: An essential intention of a services purchase is the independent entrepreneurial relationship between the contractor and the state, i.e., exclusion of an employer-employee relationship. The existence of a contract does not, alone, negate the existence of an employer-employee relationship.

Common Law Factors

An employee under the Social Security Act is "any person who under the usual common law rules applicable in determining employer-employee relationship has the status of an employee."

According to the federal Internal Revenue Service (IRS), facts that provide evidence of the degree of control and independence ("common law rules") fall into three categories; behavioral, financial and type of relationship.

Additional information about the factors that fall into these categories can be found at <https://www.irs.gov/businesses/small-businesses-self-employed/independent-contractor-self-employed-or-employee>.

Contracting with State Employees

Section 16.417, Wis. Stats., prohibits an individual who is a State of Wisconsin employee or who is retained as a contractor full-time by a state agency from being retained as a contractor by the same or another state agency where the individual receives more than \$12,000 as compensation for their services during any 12-month period.

Contracting with a state employee for services where reimbursement for those services will be made in addition to the compensation the employee



Legal Authority

Wis. Stats. 16.417(2); 16.71; Ch. 19, Sub. III;
20.901(1)(a); 230.047
Wis. Adm. Code Chapter ER-Pers 24

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receives from regular employment with the state should be given careful consideration to ensure compliance with applicable state statutes.

PROCEDURE:

- I. Employer-Employee
 - A. Agencies will ensure, at a minimum, that all services contracts contain standard terms related to the independent capacity of the contractor and its subcontractors. Use of form DOA-3681, Supplemental Standard Terms and Conditions, facilitates compliance with this requirement. See PRO-404, Standard Terms and Conditions.

II. Contracting with State Employees

State agencies considering contracting with state employees should determine the following:

- A. Is there a possible conflict of interest or violation of the Code of Ethics? See Chapter 19, Subchapter III, Code of Ethics for Public Officials and Employees and Wis. Adm. Code Chapter ER-Pers 24, Code of Ethics for State Employees.
- B. Does the employee work for another agency, and has the possibility of an interchange program as provided for in the statutes been pursued? Refer to s. 20.901(1)(a) and s. 230.047, Wis. Stats.
- C. Does the employee have the approval of their agency to engage in this type of additional employment for another agency?



Legal Authority

Wis. Stats. 16.417(2); 16.71; Ch. 19, Sub. III;
20.901(1)(a); 230.047
Wis. Adm. Code Chapter ER-Pers 24

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- D. Is the arrangement compliant with §16.417(2), Wis. Stats?
- E. If there is any question regarding contracting with a state employee, then an opinion regarding such employment should be requested from the State Ethics Commission for unclassified officials identified in Wis. Stat. s. 19.42(10), or the DOA, Division of Personnel Management, Bureau of Merit, Recruitment and Selection for classified positions and any other unclassified positions. The opinion received, or such other justification, will be a part of the transaction record.



Legal Authority

Wis. Stats. 16.417(2); 16.71; Ch. 19, Sub. III;
20.901(1)(a); 230.047
Wis. Adm. Code Chapter ER-Pers 24

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PRO-609

Section ADMINISTRATIVE POLICY	Effective 9/16/19	Replaces PRO-D-4, D-14 Various
Title PURCHASING PRODUCTS WITH SAFETY DATA SHEETS, AND PRODUCTS CONTAINING PHOSPHORUS		Page 1 of 3

SCOPE: The purpose of this policy is to establish authority and procedure for ensuring compliance with state laws related to the procurement of infectious agents, hazardous chemicals and/or products containing phosphorus.

POLICY: The procurement, and use, of certain materials carry additional requirements as outlined in Wisconsin State statutes. Specifically, agencies will comply with restrictions on the purchase of products containing phosphorus and will obtain and keep Safety Data Sheets (SDS) as provided herein.

Safety Data Sheets (SDS)

A Safety Data Sheet, as defined under Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1200(c), means written or printed material concerning a hazardous chemical which is prepared in accordance with 29 CFR 1910.1200(g).

As an employer, as defined under the Employees' Right to Know Law, §101.58(2)(a) and (e), Wis. Stats., each state agency is responsible for responding to employee requests for information on toxic substances, infectious agents, and pesticides in the workplace under §§101.583, 101.585, and 101.586, Wis. Stats. Each state agency must retain and maintain SDS for hazardous chemicals present at the agency.

For more information on OSHA SDS, see https://www.osha.gov/Publications/HazComm_QuickCard_SafetyData.html.

Products Containing Phosphorus

State agencies will not purchase or use products that contain more than 0.5 (one-half of one) percent phosphorus by weight which cannot be sold to the public at the retail level, unless otherwise exempted. The State Bureau of Procurement may waive the application of this policy in any case where health, safety, or public welfare would be negatively affected.



Legal Authority

Wis. Stats. 100.28; 101.58-101.59; 101.592;
101.595; 101.597-101.599; 166.20

Agencies Affected: All, unless otherwise noted

Authorized:
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PROCEDURE: I. Safety Data Sheets for Purchased Products

A. Whenever a hazardous chemical or infectious agent is obtained, regardless of dollar amount or procurement method, the vendor is required to submit copies of the appropriate SDS with the initial shipment and with the first shipment after a SDS is updated. The vendor must send the initial or updated MSDS with a complete container, partial container or single product. The vendor, distributor or manufacturer may make access to SDS available online via their website, however, SDS must be provided as stated herein, regardless of online availability, to meet state and OSHA requirements.

B. All purchases, regardless of dollar amount, must contain the following (or similar):

"If any item(s) on this order is a hazardous chemical, as defined under OSHA 29 CFR 1910.1200, or an infectious agent, as defined by §. 101.58, Wis. Stats., the vendor shall include the appropriate Safety Data Sheet(s) with the initial shipment and with the first shipment after a Safety Data Sheet is updated. The vendor shall send the initial or updated Safety Data Sheet(s) with a complete container, partial container or single product. The vendor, distributor or manufacturer may make access to Safety Data Sheets available online via their website, however, Safety Data Sheets must be provided as stated herein, regardless of online availability, to meet State of Wisconsin and United States Department of Labor, Occupational Safety and Health Administration (OSHA) requirements."



Legal Authority

Wis. Stats. 100.28; 101.58-101.59; 101.592;
101.595; 101.597-101.599; 166.20

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- C. If it is brought to the attention of the agency purchasing office that an SDS has not been supplied according to the request on the procurement, acquisition or purchase order, that purchasing office and the office designated to be responsible for SDS management will work together to contact the vendor to acquire the SDS.
 - D. Questions or problems arising from attempts to get information from manufacturers or suppliers should be addressed to the director, State Bureau of Procurement and the director, Bureau of State Risk Management.
- II. Exemptions: Products Containing Phosphorus
- A. Exceptions to the standard identified in Policy are:
 - 1) More than 8.7 percent for machine dishwashing or cleansing of medical equipment.
 - 2) More than 20 percent for water conditioners.
 - B. Cleansing of dairy equipment and cleaning agents used for industrial processes are not covered by this policy. State agency use will not be interpreted as "industrial use".



Legal Authority

Wis. Stats. 100.28; 101.58-101.59; 101.592;
101.595; 101.597-101.599; 166.20

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