

# State Procurement Manual

DOA-3449 N(R06/94) Formerly AD-P-12

|  |                          |                     |
|--|--------------------------|---------------------|
|  |                          | Number<br>PRO-K-1   |
|  |                          | Effective<br>2-4-13 |
| Section<br>WORK CENTER                   | Agencies Affected<br>ALL | Replaces<br>10-4-02 |
| Title<br>AGENCY INITIATION OF A CONTRACT |                          | Page<br>1 of 5      |

AUTHORITY: [Wis. Stats.](#) 16.752  
104.01(6)  
104.07

SCOPE: - to define work center  
- to establish policy with respect to procurement from work centers

DEFINITIONS: I. "Direct labor" means all labor or work (in hours or compensation) 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.

II. "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.

III. "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% of the total hours of direct labor are performed by persons with severe disabilities.

POLICY: The State Use Law requires agencies to procure needed materials, supplies, equipment or services from certified work centers. The agency may direct questions regarding the State Use Program to the [coordinator](#) at 608/266-5462.

CONTENT: I. Agency soliciting a certified work center (WC)

A. The agency will develop specifications, delivery requirements and performance standards for the required commodity/service and include as part of its specifications the need for WCs to certify that not less than 75% of the total hours of direct labor are performed by severely handicapped individuals.

B. Exemptions from the WC program:

1. Interagency purchases

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2. Bureau of Correctional Enterprises (BCE) dba Badger State Industries (BSI)

BCE/BSI purchases are exempt from the WC program only if BCE/BSI currently provides the commodities/services. If a WC currently holds or requests development of a contract for commodities/services that BCE/BSI does not provide, then the WC has the first opportunity to contract. BCE/BSI may not request a contract after it is awarded to a WC.

3. Printing and stationery

See [PRO-C-18](#), Printing Procurements.

4. 15% gross sales impact rule

If an existing vendor will lose more than 15% of its yearly sales or production upon loss of a contract, the contract will be exempt from the WC program.

5. Mandatory state contracts

The agency will review the current mandatory contracts to determine if a contract exists for the commodity/service required. If a mandatory contract exists, the procedures outlined in the contract will be followed.

C. If there is no mandatory statewide contract, the agency will:

1. Identify the WCs (if any) that provide the required commodity/service by searching on [the Wisconsin's State Use Program Web site](#). If no WC is listed, the agency will follow standard purchasing procedures. If only one WC is capable of providing the procurement, the agency may begin contract development without following sole source procedures.

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2. For an existing agency contract with a non-WC vendor, 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 (up to six months prior to contract renewal/expiration) for the negotiation process. If a contract is not developed by that date, the agency may proceed with standard purchasing procedures.
3. Follow the procedures established for the appropriate dollar level: (The WC response must address all specifications.)

- a. \$5,000 or less

When the estimated cost is \$5,000 or less, the agency need only contact one WC that, in the agency's judgment, will provide a quality product at a competitive price. At all times the agency is strongly encouraged, where appropriate, to procure from a qualified WC.

- b. Over \$5,000 through \$50,000

When the estimated cost is over \$5,000 through \$50,000, the agency will solicit at least three (if available) of the WCs listed on the [Directory of Certified Work Centers](#) for a quote.

- c. Over \$50,000

The agency will contact all WCs listed for the particular commodity/service on the Directory of Certified Work Centers either by phone or by mail to determine if they are interested and capable of providing the procurement. (The legal notice requirement does not apply.) This step is not required if all identified WCs are issued a request for bid/proposal.

4. Apply the following in awarding a contract when more than one WC responds to a solicitation to offer/propose.
  - a. Issues to be considered in awarding a contract include:
    - (1) 75% direct labor requirement,
    - (2) Fair market price,

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- (3) Ability to meet specifications,
    - (4) Ability to meet delivery requirements,
    - (5) Quality control, and
    - (6) References.
  - b. Determine fair market price. (Award to the lowest responsible WC. Refer to [PRO-K-3](#), Fair Market Price.)
  - c. If all responses to the solicitation to bid/propose are equal, the award will be made according to [PRO-C-24](#), Tied Bids.
5. For contracts for services that are over \$50,000:
  - a. If more than one WC responds to the solicitation, the agency will issue a notice of intent to award. See [PRO-I-14](#), Notice of Intent—Contractual Services.
  - b. WCs will follow the standard appeals process if they wish to challenge the award of the contract for services over \$50,000. See [PRO-I-13](#), Appeals Process—Contractual Services.

## II. 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 notify the Bureau by using the Complaint Report on Vendor/Contractor Performance (form [DOA-3686](#)). See [PRO-G-6](#), Complaint Report on Vendor/Contractor Performance.
- 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. A delay of 30 to 120 days may not be uncommon, as the Board meets quarterly.
- C. If the Board suspends a WC's eligibility to provide specific commodities/services in the program, this information will be reflected in the Directory of Certified Work Centers.

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### III. WCs soliciting the agency

Refer to [PRO-K-2](#), Work Center Solicitation of a Contract.

Authorized:



Rick S. Hughes, Director  
State Bureau of Procurement