



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 89
[2005 Assembly Bill 105]

State Contractual Procedures

Under *current law*, the Department of Administration (DOA) or its agents may generally (with some exceptions) contract for services if the services can be performed more economically or efficiently by such contract than by state employees. Following the end of each fiscal year, DOA must report to the Governor, the Joint Committee on Finance, the Joint Legislative Audit Committee, and the appropriate legislative standing committees concerning the number, value, and nature of contractual service procurements authorized for each agency during the preceding fiscal year.

Act 89 requires DOA to promulgate rules to:

- Prescribe uniform procedures for determining whether services are appropriate for contracting.
- Require agencies (the bill also requires the Department of Transportation (DOT), for which specialized services contracts are otherwise generally not subject to state laws governing contractual services contracts) to conduct a uniform cost-benefit analysis (defined to include total cost, quality, technical expertise, and timeliness of a service) of each proposed contractual service procurement involving an estimated expenditure of more than \$25,000 in accordance with standards prescribed in the rules.
- Require agencies (again, the bill also requires the DOT—see above) to review periodically, and before any renewal, the continued appropriateness of contracting under each contractual services agreement involving an estimated expenditure of more than \$25,000.

In addition, *Act 89* requires that the annual DOA report include a summary of the cost-benefit analyses prepared by state agencies in the preceding fiscal year and recommendations for elimination of unneeded contractual service procurements and for consolidation or resolicitation of existing contractual service procurements.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Finally, *Act 89* adds to current law a requirement that each fiscal estimate prepared for a bill indicate whether any increased costs incurred by the state under the bill can be mitigated through the use of contractual service contracts let in accordance with competitive procedures.

Act 89 also authorizes the use of the emergency administrative rules by DOA and DOT to implement the provisions of Act 89 and requires promulgation of the rules no later than July 1, 2006.

Effective Date: The effective date of Act 89 is January 20, 2006. The requirements regarding solutions for contractual services first applies on the effective date of the emergency rules promulgated by DOA and DOT. The requirements related to fiscal estimates first applies to fiscal estimates ordered on July 1, 2006.

Prepared by: Russ Whitesel, Senior Staff Attorney
Mary Offerdahl, Staff Attorney

January 10, 2006

RW:MO:ksm:tlu