

Report From Agency



REPORT TO THE LEGISLATURE

CLEARINGHOUSE RULE 11-053
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
TCS 6.05, WIS. ADMIN. CODE

Submitted by:

Wisconsin Technical College System Board
4622 University Avenue
PO Box 7874
Madison, Wisconsin 53707-7874

March 13, 2012

**PROPOSED ORDER OF THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD
AMENDING RULE RELATING TO PROCUREMENT
CR 11-053**

The Wisconsin Technical College System Board proposes an order to amend TCS 6.05 relating to procurement.

**ANALYSIS PREPARED BY THE
WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

1. **Statutes interpreted:** Wis. Stats. § 38.04
2. **Statutory authority:** Wis. Stats. § 38.04 and § 38.12
3. **Explanation of agency authority:** Section 38.04 (14) (a), Stats., authorizes the technical college system board to promulgate rules applicable to all district boards, establishing general district policies related to procurement and contracts to provide services.
4. **Related statute or rule:** TCS 6.05
5. **Plain language analysis:** 2011 Wisconsin Act 32 raised procurement cost minimums for various procurement requirements for state agencies in ch. 16, Stats. The proposed rule amendments are limited to increasing current procurement cost minimums for technical college districts to align with the minimums outlined for state agencies in ch. 16, Stats.
6. **Summary of, and comparison with, existing or proposed federal regulations:** Not applicable. Technical college districts are seeking consistency with Wisconsin state procurement standards.
7. **Comparison with rules in adjacent states:** Not applicable. Technical college districts are seeking consistency with Wisconsin state procurement standards.
8. **Summary of factual data and analytical methodologies:** Not applicable.
9. **Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** Not applicable
10. **Effect on small business:** None.

11. **Agency contact person:** Morna Foy, Vice President, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-2449, e-mail morna.foy@wtcssystem.edu.

12. **Place where comments are to be submitted and deadline for submission:** Comments may be submitted to the agency contact person listed above. The deadline for comments is February 15, 2012. A public hearing and notice are not required under s. 227.16 (2) (b), Stats., as the proposed rule amendment will align the cost minimums for procurement requirements of the Wisconsin Technical College System with the policies and cost minimums established by the Legislature and the Governor for state agency procurements in 2011 Wisconsin Act 32.

STATEMENT EXPLAINING NEED FOR PROPOSED RULE

Currently, technical college district procurement requirements are inconsistent with statutes governing state agency procurement requirements. 2011 Wisconsin Act 32 raised procurement cost minimums for various procurement requirements for state agencies in ch. 16, Stats. The proposed rule amendment aligns the cost minimums for technical college districts with state agency procurement requirements.

PUBLIC HEARING

No comments were received. A public hearing and notice were not required under s. 227.16 (2) (b), Stats., as the proposed rule amendment will align the cost minimums for procurement requirements of the Wisconsin Technical College System with the policies and cost minimums established by the Legislature and the Governor for state agency procurements in 2011 Wisconsin Act 32.

RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS

All recommendations were accepted and incorporated into the final draft. The rule text was revised to reflect the appropriate format as outlined in the Administrative Rules Procedures Manual.

FINAL REGULATORY FLEXIBILITY ANALYSIS

Not applicable

FISCAL ESTIMATE

The functions required by these rules can be absorbed within existing staff. Therefore, there is no fiscal effect on the agency. A Fiscal Estimate and Economic Impact Analysis form is attached.

TEXT OF RULE

Section 1. TCS 6.05 (2) (c), (f), (g) and (j) (intro.) are amended to read:

TCS 6.05 (2) (c) *Competitive bids*. Require that all procurements where the total cost exceeds ~~\$25,000~~ \$50,000 and public construction under ss. 38.18 and 62.15 (1), (11), and (14), Stats., where the total cost exceeds ~~\$10,000~~ \$25,000 be accomplished through the use of competitive bids except as provided by pars. (d), (e), and (i).

(f) *Solicitation of written quotes*. Except as provided under pars. (d), (e), and (i), require that all procurements where the total cost equals or exceeds ~~\$10,000~~ \$25,000 and does not exceed ~~\$25,000~~ \$50,000 be accomplished through the solicitation of written quotations from a minimum of 3 contractors or proposed contractors.

(g) *Procurements less than \$10,000 than \$25,000*. Establish a procedure for all procurements where the total cost is less than ~~\$10,000~~ \$25,000.

(j) *Records required*. Require that records be created and retained for all procurements where the total cost equals or exceeds ~~\$10,000~~ \$25,000. These records shall include:

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this 13th day of March, 2012.

Wisconsin Technical College System Board



Daniel Clancy, President

Wisconsin Technical College System

ADMINISTRATIVE RULES FISCAL ESTIMATE AND ECONOMIC IMPACT ANALYSIS

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

TCS 6, General District Policies – 6.05 Procurement

Subject

Procurement

Fund Sources Affected

Chapter 20, Stats. Appropriations Affected

GPR FED PRO PRS SEG SEG-S

Chapter 38

Fiscal Effect of Implementing the Rule

No Fiscal Effect (for
 WTCS Board)
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs (for technical college districts)

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Specific Businesses/Sectors

Local Government Units

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

Currently, technical college district procurement requirements are inconsistent with statutes governing state agency procurement requirements. The rule change would align technical college district and state agency procurement requirements.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

Rule change would reduce procurement administration costs of technical college districts (local governmental units).

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Consistent procurement processes and requirements for state and local technical college districts. Reduce procurement administration costs of technical college districts (local governmental units).

Long Range Implications of Implementing the Rule

Consistent procurement processes and requirements for state and local technical college districts. Reduce procurement administration costs of technical college districts (local governmental units).

Compare With Approaches Being Used by Federal Government

Not applicable. Technical college districts are seeking consistency with Wisconsin state procurement standards.

Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Not applicable. Technical college districts are seeking consistency with Wisconsin state procurement standards.

Name and Phone Number of Contact Person

Morna Foy, 266-2449