



ACE Newsletter

Association of Career Employees

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Contracting Staff and Services in State Government

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The State of Wisconsin contracts with the private sector to fill gaps in employment and to provide services. Employees and the public often question how and why contracting is used. In this newsletter we are exploring some of the ways the State of Wisconsin uses contracting.

The State is required to publish a report concerning the number, value and nature of contractual service procurements authorized for each agency during the preceding fiscal year. The [State of Wisconsin Contractual Services Annual Report Fiscal Year 2023](#) is the latest published report. The report provides charts showing contract amounts by

agency and account code. There is also a summary chart of amounts spent by State Agencies and the UW System between 2005-2023. The report provides information on cost-benefit analyses submitted by state agencies.

Summary of Expenditures

- Overall contracting totaled \$1,285,553,211 in FY23.
- State agency contracting totaled \$1,044,593,927 in FY23.
- University of Wisconsin System, including UW Madison, contracting totaled \$240,959,284 in FY23.
- State Agencies and the University of Wisconsin System produced 323 cost-benefit analyses in FY23.

The vast majority of contract spending comes from state agencies taken together which accounted for over 80% in FY2023. The Department of Health Services consistently spends more for contracting than other agencies, amounting to about 43% of the total for 2023. Most contracting is for Professional Services – General with 42% of the total.

Comparing information from reports currently on the Department of Administration website, a few other trends can be seen. Contracting by state agencies and the University of Wisconsin was shown as higher at the beginning of the millennium (2000-2001 through 2003-2004) than in later years. Beginning in FY05, gross WISMART contractual services data was analyzed to exclude spending authorized outside of s.16.75 Wis. Stats. Excluded spending includes interagency or municipal spend, fellowship, and scholarships, services provided in conjunction with building or road construction projects and Chapter 36 research or instructional services.

What follows is a list of contracting use cases or scenarios with a discussion of what the motivations, risks, and visibility may be for each. These use cases are mostly derived from Jay's own personal experience, so it has something of an Information Technology (IT) slant. Jay suspects that these same kinds of things happen within private sector organizations as well and has seen one or two small-scale examples in organizations he has been in contact with.

Contracting as an alternative to limited-term employee (LTE) or even full-time employee (FTE) hiring (“Classic” contracting)

- Motivations can include things like position freezes, position count constraints, and budgetary constraints. Less often the motivation can be a business area wanting more firm control over technology and its implementation. Note that day-to-day supervision requirements are roughly the same: management has to monitor the progress on the task at hand much like they would with hired staff. This need is sometimes filled by a project leader within the FTE staff.
- This style of contracting can save on resources (salary and training expenses to get an employee up to speed) if the contract rate is less than the LTE/FTE rate including retirement and other benefits. Another motivation can be the overhead involved in taking on a different technology or maintaining expertise in an obsolescent technology.
- One risk is similar to that for hiring an employee: if the contract terminates, the knowledge gained during the contract of business operations, communication, etc. leaves with them. Another risk is that more time will be taken up within the FTE staff to manage the task assignments, communication, and coordination with the contractor. The longer the contract goes on, the less likely it is to save money, and the more likely that organizational “friction” will diminish returns (not the human kind of friction, but the kind that results from requiring more or different communication between the contractor and the contracting bureau and staff to accomplish a task). Another risk that can occur if the contractor is not adequately managed is that the contractor may introduce a dependence, either directly to them, or to some product that they provide, without prior knowledge from the contracting agency, making it more difficult to terminate the contract or requiring an unanticipated ongoing expenditure.
- Visibility into this kind of contracting is direct: these are likely to show up in Legislative Audit Bureau (LAB) audits, budgetary documents, etc.

Contracting involving a purchased product

- The motivation for this kind of contracting is usually of little importance or choice: purchase of a product may entail contracted services to implement and/or manage that product. Ideally this would involve a decision-making process where alternatives for implementation of the product itself is looked at both from an internally-staffed option vs. a vendor-staffed option. Sometimes a product vendor offers no realistic alternative to using their services for implementation.
- There is rarely, if ever, a discussion of alternatives to the contract itself in these cases: the decision to use a purchased product vs. developing something in house has already been made, either based on cost or other considerations.
- A risk in this use case is that important knowledge transfer to internal staff regarding the use of the product on an ongoing basis may be insufficient, requiring additional contracted services from the vendor or contracting firms in their orbit to manage ongoing use of the product. These would typically be spelled out in some kind of bid or Request for Proposals (RFP), and are less likely to come as a surprise as compared to the situation with an individual contractor.
- About the only visibility into this will be a project document that compares alternatives – which doesn't often actually occur. There will be a certain amount of visibility by looking at contracted services around a product of some sort, but only careful review would detect this.

Contracting a service as an alternative to providing a service “in house”

- In addition to the staffing motivations seen with the first case as an alternative to full-time or limited term employees, an additional motivation in these cases can be simplifying supervision of the task at hand. Instead of internal project proposals, multiple position descriptions (PDs), employee reviews, compensation adjustments, etc., everything is just in the contract. Another motivation can be concern over developing and maintaining the necessary expertise in house to provide the service.
- Sometimes the contract is not with a commercial provider: it might be with a different service organization, either within the contracting organization itself, or

with a provider (e.g., The Universities of Wisconsin DoIT organization) housed within the larger organization containing the contracting organization.

- In addition to motivations centered around staffing and project management costs, this style of contracting can also save on costs related to physical space. Some, most, or even all of the staff involved may be housed elsewhere at the direct expense of the contractor.
- One risk in this kind of contracting is incomplete specification of the requirements of the service. This may lead to diminished levels of services internally or even to the public and increased costs in negotiating and mediating disputes about the service. Another risk can be “capture” where the contracting agency becomes so dependent on the service that it has no alternative to pricing pressure from the contracted organization. Finally, it can be a problem if the contractor is no longer able to provide the service in the future.
- Visibility concerns would be very similar to service contracted around a product: there may but probably will not be any kind of documented comparative analysis, and even if there were, only a thorough audit or review would uncover it. The only visibility would be looking at the contracted services.

Contracting services buried as sub-contracts within a major project

- Motivations in these cases would be diverse. They may stem from a business organization not wanting another organization, such as IT, to be prying into what is going on or wanting to take control. Another motivation in the case of some federal projects is that by including (and possibly burying) such costs for these sub-contracts in a major project contract, like a highway construction project, the nature of the work – particularly between things that would be classified as project related construction and what would be classified as overhead – appear to be different.
- This kind of contracting does not always save on staff funding. Costs, both initial and ongoing may actually be higher than taking on the tasks in house. There is almost never any kind of comparative analysis to look at, save in some kind of email discussion of alternatives either within the state agency, or between

agency staff and whatever organization provides the services under the top-level contract. It may result in lowered costs to house the staff working under the sub-contract.

- Aside from possibly increased costs, another risk would relate to dealing with a situation where the organization that originally managed and implemented the project simply disappears or goes bankrupt. This can be catastrophic, especially if it happens on relatively short notice. Costs may escalate without warning or alternatives.
- This kind of sub-contract is almost never visible – sometimes by design.

Contracting of Regulatory Oversight

- Motivations in this case might center around several factors.
 - The oversight might be perceived as routine and uninteresting, and not requiring even a full-time equivalent position.
 - On the other hand, the oversight might be perceived as requiring multiple people and a lot of supervisory overhead.
 - Or, the oversight might be perceived as requiring considerable expertise and training.
 - In some cases, there could exist companies that specialize in a particular area of oversight, with perceived efficiencies and economies of scale.
- Cost savings could potentially center around office space, staffing, training costs.
- There could be so risks:
 - If the vendor providing the service does a poor job, in some cases human safety could be compromised. There could also be risk of a newspaper-scale event placing the contracting agency in a poor light.
 - There could be complaints of fairness regarding the necessary RFP process, which would necessarily have to be repeated from time to time.
 - Once left to a vendor, getting this back may be quite difficult to return to in-house staffing absent the occurrence of a significantly negative incident, even if money is no longer being saved.

- Costs could increase – as a result of a new RFP, and possibly even the result of a line-your-pockets kind of arrangement with politicians.
 - This kind of contract would presumably be quite visible in an agencies budget.
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