

Section 1. Minnesota Statutes 1976, Section 171.02, Subdivision 2, is amended to read:

Subd. 2. **VOLUNTEER FIREMEN; TRUCKS AND EMERGENCY EQUIPMENT; MIDMOUNT AERIAL LADDER TRUCK.** Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle or school bus unless so endorsed. There shall be three general classes of licenses as follows:

(a) Class C; valid for all farm trucks as defined in section 168.011, subdivision 17, operated by the owner or an immediate member of his family or an employee not primarily employed for the purpose of operating the farm truck, fire trucks and emergency fire equipment, regardless of the number of axles, and whether or not in excess of 24,000 pounds GVW, driven or operated by volunteer firemen while on duty, and all single unit two axle vehicles not in excess of 24,000 pounds GVW including vehicles with a temporary auxiliary axle as defined in section 169.67, subdivision 4. Holder may also tow trailers under 10,000 pounds GVW including house trailers. Buses as defined under this chapter may not be driven by a holder of a Class C license. A person employed as a tillerman by a fire department may drive the rear portion of a midmount aerial ladder truck with a Class C license.

(b) Class B; valid for all vehicles in Class C and all other single unit vehicles including buses.

(c) Class A; valid for any vehicle or combination thereof.

Approved March 9, 1978.

CHAPTER 480-H.F.No.1103

[Coded in Part]

An act relating to the operation of state government; centralizing the management and review of all state contracts in the office of the commissioner of administration; distinguishing consultant, professional and technical contracts; amending Minnesota Statutes 1976, Section 15.061; and Chapter 16, by adding a section; repealing Minnesota Statutes 1976, Sections 16.10 and 161.35.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1976, Section 15.061, is amended to read:

15.061 **CONSULTANT, PROFESSIONAL AND TECHNICAL SERVICES.** ~~Notwithstanding the provisions of any other law Pursuant to the provisions of section 2, the head of a state departments and agencies department or agency may, with the~~ Changes or additions indicated by underline deletions by ~~strikeout~~

approval of the commissioner of administration, ~~use salary appropriations to contract for consultant services and professional and technical services in connection with the operation of the departments and agencies department or agency. Such contracts A contract negotiated under this section shall not be subject to the competitive bidding requirements of chapter 16.~~

Sec. 2. Minnesota Statutes 1976, Chapter 16, is amended by adding a section to read:

[16.098] CONTRACT MANAGEMENT AND REVIEW. Subdivision 1. DEFINITIONS. For the purposes of this section:

(1) "Commissioner" means the commissioner of administration.

(2) "State contract" means any written instrument containing the elements of offer, acceptance and consideration to which a state agency is a party.

(3) "Agency" means any state officer, employee, board, commission, authority, department or other agency of the executive branch of state government.

(4) "Consultant services" means services which are intellectual in character; which do not involve the provision of supplies or materials; which include analysis, evaluation, prediction, planning or recommendation; and which result in the production of a report.

(5) "Professional and technical services" means services which are predominantly intellectual in character; which do not involve the provision of supplies or materials; and in which the final result is the completion of a task rather than analysis, evaluation, prediction, planning or recommendation.

Subd. 2. DUTIES OF COMMISSIONER. The commissioner shall perform all contract management and review functions for state contracts, excepting those functions presently performed by the contracting agency, the attorney general and the commissioner of finance. In so doing, the commissioner shall establish the manner and form in which all state contracts shall be prepared and processed and shall examine and approve or disapprove all state contracts as to content, purpose, propriety and budget ramifications. No agency shall execute a state contract without receiving the prior approval of the commissioner pursuant to this subdivision. All agencies shall afford full cooperation to the commissioner in the management and review of state contracts.

Subd. 3. DUTIES OF CONTRACTING AGENCY. Before an agency may seek approval of a consultant or professional and technical services contract valued in excess of \$2,000, it shall certify to the commissioner that:

(1) no state employee is competent to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

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(3) the services are not available as a product of a prior consultant or professional and technical services contract, and the contractor has certified that the product of his services will be original in character;

(4) reasonable efforts were made to publicize the availability of the contract;

(5) the agency has received, reviewed and accepted a detailed work plan from the contractor for performance under the contract; and

(6) the agency has developed, and fully intends to implement, a written plan providing for (a) the assignment of specific agency personnel to a monitoring and liaison function, (b) the periodic review of interim reports or other indicia of part performance and (c) the ultimate utilization of the final product of the services.

Subd. 4. PROCEDURE FOR CONSULTANT AND PROFESSIONAL AND TECHNICAL SERVICES CONTRACTS. Before approving a proposed state contract for consultant services or professional and technical services the commissioner shall have at least determined that:

(1) all provisions of subdivisions 2 and 3 have been verified or complied with;

(2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities, and that there is statutory authority to enter into the contract;

(3) the contract will not establish an employer/employee relationship between the state or the agency and any persons performing under the contract;

(4) no current state employees will engage in the performance of the contract;

(5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract;

(6) the contracting agency has specified a satisfactory method of evaluating and utilizing the results of the work to be performed.

Subd. 5. CONTRACT TERMS. A consultant or technical and professional services contract shall by its terms permit the agency to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the agency determines that further performance under the contract would not serve agency purposes. If the final product of the contract is to be a report, no more than three copies of the report, one in camera ready form, shall be submitted to the agency. One of the copies shall be filed with the legislative reference library. The form of the report shall be as the commissioner may by rule or order provide.

Subd. 6. CONTRACT ADMINISTRATION. Upon entering into a state contract, an agency shall bear full responsibility for the diligent administration and monitoring of the contract. The commissioner may require an agency to report to him at any time on

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the status of any outstanding state contract to which the agency is a party. After completion of performance under a consultant or professional and technical services contract, the agency shall evaluate the performance under the contract and the utility of the final product. This evaluation shall be delivered to the commissioner who shall retain all such evaluations for future reference.

Subd. 7. DELEGATION. The commissioner may delegate a part or all of his contract management and review functions to the head of another agency including the contracting agency when he deems it appropriate. Delegations shall be filed with the secretary of state and shall not, except with respect to delegations within the department of administration, exceed two years in duration.

Subd. 8. RULEMAKING AUTHORITY. The commissioner may adopt and enforce rules as he deems necessary regarding the management and review of state contracts.

Subd. 9. VALIDITY OF STATE CONTRACTS. No state contracts shall be valid, nor shall the state be bound by the contract until it has first been executed by the head of the agency which is a party to the contract and has been approved in writing by the commissioner or his delegate pursuant to this section, by the attorney general or his delegate as to form and execution and by the commissioner of finance or his delegate that the appropriation and allotment have been encumbered for the full amount of the contract liability. The head of the agency may delegate the execution of specific contracts or specific types of contracts to a deputy or assistant head within his agency if the delegation has been approved by the commissioner of administration and filed with the secretary of state.

Subd. 10. AUTHORITY OF ATTORNEY GENERAL. The attorney general may sue to avoid the obligation of an agency to pay under a contract or to recover payments made, if services performed under the contract are so unsatisfactory, or incomplete, or so inconsistent with the price that payment would involve unjust enrichment. The contrary opinion of the contracting agency does not affect the power of the attorney general under this section.

Subd. 11. REPORTS. The commissioner shall monthly submit to the governor and the legislature a listing of all contracts for consultant services and for professional and technical services executed or disapproved in the preceding month. The report shall identify the parties and the contract amount, duration and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of his department over the preceding quarter.

Sec. 3. Minnesota Statutes 1976, Sections 16.10 and 161.35, are repealed.

Sec. 4. This act is effective the day following final enactment.

Approved March 14, 1978.

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