

## CHAPTER 16B

## DEPARTMENT OF ADMINISTRATION

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**16B.04 AUTHORITY.**

*[For text of subd 1, see M.S.2004]*

Subd. 2. **Powers and duties, general.** Subject to other provisions of this chapter, the commissioner is authorized to:

- (1) supervise, control, review, and approve all state contracts and purchasing;
- (2) provide agencies with supplies and equipment and operate all central store or supply rooms serving more than one agency;
- (3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;
- (4) manage and control state property, real and personal;
- (5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;
- (6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;
- (7) provide central duplicating, printing, and mail facilities;
- (8) oversee publication of official documents and provide for their sale;
- (9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;
- (10) establish and administer a State Building Code; and
- (11) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter. The commissioner shall report back to the legislature by October 1, 1984, with the recommendation to implement the private day care operation.

*[For text of subs 3 and 4, see M.S.2004]*

**History:** 2005 c 156 art 5 s 3

**16B.296 TRANSFER OF REAL PROPERTY.**

Notwithstanding any law to the contrary, real property purchased in whole or in part with state funds may not be transferred for less than the appraised value, or if the property has not been appraised, for less than the fair market value as determined by the commissioner of administration. This section does not apply to a department listed in section 15.01, the Minnesota State Colleges and Universities, the University of Minnesota, or a political subdivision of the state.

**History:** 2005 c 156 art 2 s 19

**16B.31 COMMISSIONER MUST APPROVE PLANS.**

Subdivision 1. **Construction plans and specifications; design-build, construction manager at risk, or job order contracting.** (a) The commissioner shall (1) have plans and specifications prepared for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges, and except for buildings and structures under the control of the Board of Regents of the University of Minnesota or of the Board of Trustees of the Minnesota State Colleges

and Universities; (2) approve those plans and specifications; (3) advertise for bids and award all contracts in connection with the improvements; (4) supervise and inspect all work relating to the improvements; (5) approve all lawful changes in plans and specifications after the contract for an improvement is let; and (6) approve estimates for payment. This subdivision does not apply to the construction of the Zoological Gardens.

(b) MS 2002 (Expired)

(c) MS 2002 (Expired)

(d) Notwithstanding any other law to the contrary, the commissioner may:

(1) use a design-build method of project delivery and award a design-build contract as provided in sections 16C.32 and 16C.33;

(2) use a construction manager at risk method of project delivery and award a construction manager at risk contract on the basis of the selection criteria described in section 16C.34; or

(3) use a job order contracting contractor selection as described in section 16C.35.

(e) The commissioner may require a primary designer and a construction manager at risk, by contract, to cooperate in the design, planning and scheduling; and construction process. The contract must not make the primary designer or construction manager at risk a subcontractor or joint venture partner to the other or limit the primary designer's or construction manager at risk's independent obligations to the commissioner.

(f) For projects undertaken by the Minnesota State Colleges and Universities system, the powers and duties granted in paragraphs (d) and (e) may be exercised by its board of trustees.

*[For text of subs 2 to 7, see M.S.2004]*

**History:** 2005 c 10 art 1 s 11; 2005 c 78 s 1

### 16B.33 DESIGNER SELECTION BOARD.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them:

(a) "Agency" has the meaning given in section 16B.01.

(b) "Architect" means an architect or landscape architect registered to practice under sections 326.02 to 326.15.

(c) "Board" means the state Designer Selection Board.

(d) "Design-build" means the process of entering into and managing a single contract between the commissioner and the design-builder in which the design-builder agrees to both design and construct a project as specified in the contract at a guaranteed maximum or a fixed price.

(e) "Design-builder" means a person who proposes to design and construct a project in accordance with the requirements of section 16C.33.

(f) "Designer" means an architect or engineer, or a partnership, association, or corporation comprised primarily of architects or engineers or of both architects and engineers.

(g) "Engineer" means an engineer registered to practice under sections 326.02 to 326.15.

(h) "Person" includes an individual, corporation, partnership, association, or any other legal entity.

(i) "Primary designer" means the designer who is to have primary design responsibility for a project, and does not include designers who are merely consulted by the user agency and do not have substantial design responsibility, or designers who will or may be employed or consulted by the primary designer.

(j) "Project" means an undertaking to construct, erect, or remodel a building by or for the state or an agency.

(k) "User agency" means the agency undertaking a specific project. For projects undertaken by the state of Minnesota, "user agency" means the Department of Administration or a state agency with an appropriate delegation to act on behalf of the Department of Administration.

*[For text of subs 2 to 3a, see M.S.2004]*

Subd. 4. **Designer selection process.** (a) **Publicity.** Upon receipt of a request from a user agency for a primary designer, the board shall publicize the proposed project in order to determine the identity of designers interested in the design work on the project. The board shall establish criteria for the selection process and make this information public, and shall compile data on and conduct interviews of designers. The board's selection criteria must include consideration of each interested designer's performance on previous projects for the state or any other person. Upon completing the process, the board shall select the primary designer and shall state its reasons in writing. If the board's vote for the selection of a primary designer results in a tie vote, the nonvoting member appointed under subdivision 2, paragraph (b), must vote for the selection of the primary designer. Notification to the commissioner of the selection shall be made not more than 60 days after receipt from a user agency of a request for a primary designer. The commissioner shall promptly notify the designer and the user agency. The commissioner shall negotiate the designer's fee and prepare the contract to be entered into between the designer and the user agency.

(b) **Conflict of interest.** A board member may not participate in the review, discussion, or selection of a designer or firm in which the member has a financial interest.

(c) **Selection by commissioner.** In the event the board receives a request for a primary designer on a project, the estimated cost of which is less than the limit established by subdivision 3, or a planning project with estimated fees of less than the limit established by subdivision 3, the board may submit the request to the commissioner of administration, with or without recommendations, and the commissioner shall thereupon select the primary designer for the project.

(d) **Second selection.** If the designer selected for a project declines the appointment or is unable to reach agreement with the commissioner on the fee or the terms of the contract, the commissioner shall, within 60 days after the first appointment, request the board to make another selection.

(e) **Sixty days to select.** If the board fails to make a selection and forward its recommendation to the commissioner within 60 days of the user agency's request for a designer, the commissioner may appoint a designer to the project without the recommendation of the board.

(f) **Less than satisfactory performance.** The commissioner, or the University of Minnesota and the Minnesota State Colleges and Universities for projects under their supervision, shall forward to the board a written report describing each instance in which the performance of a designer selected by the board or the commissioner has been less than satisfactory. Criteria for determining satisfaction include the ability of the designer to complete design work on time, to provide a design responsive to program needs within the constraints of the budget, to solve design problems and achieve a design consistent with the proposed function of the building, to avoid costly design errors or omissions, and to observe the construction work. These reports are public data and are available for inspection under section 13.03.

**History:** 2005 c 78 s 2; 2005 c 156 art 2 s 20

### 16B.335 REVIEW OF PLANS AND PROJECTS.

*[For text of subs 1 to 4, see M.S.2004]*

Subd. 5. **Information technology.** Agency requests for construction and remodeling funds shall include money for cost-effective information technology investments that would enable an agency to reduce its need for office space, provide more of its services

electronically, and decentralize its operations. The Office of Enterprise Technology must review and approve the information technology portion of construction and major remodeling program plans before the plans are submitted to the chairs of the senate Finance Committee and the house of representatives Ways and Means Committee for their recommendations and the chair of the house of representatives Capital Investment Committee is notified as required by subdivision 1.

*[For text of subd 6, see M.S.2004]*

**History:** 2005 c 156 art 5 s 23

**16B.405** [Renumbered 16E.15]

**16B.44** [Renumbered 16E.16]

**16B.46** [Renumbered 16E.17]

**16B.465** Subdivision 1. [Renumbered 16E.18, subdivision 1]

Subd. 1a. [Renumbered 16E.18, subd 2]

Subd. 3. [Renumbered 16E.18, subd 3]

Subd. 4. [Renumbered 16E.18, subd 4]

Subd. 4a. [Renumbered 16E.18, subd 5]

Subd. 4b. [Renumbered 16E.18, subd 6]

Subd. 6. [Renumbered 16E.18, subd 7]

Subd. 7. [Renumbered 16E.18, subd 8]

**16B.466** [Renumbered 16E.19]

**16B.467** [Renumbered 16E.20]

**16B.48 GENERAL SERVICES REVOLVING FUNDS.**

*[For text of subs 1 and 2, see M.S.2004]*

Subd. 3. [Repealed, 2005 c 156 art 5 s 24]

Subd. 4. **Reimbursements.** Except as specifically provided otherwise by law, each agency shall reimburse the general services revolving funds for the cost of all services, supplies, materials, labor, and depreciation of equipment, including reasonable overhead costs, which the commissioner is authorized and directed to furnish an agency. The cost of all publications or other materials produced by the commissioner and financed from the general services revolving fund must include reasonable overhead costs. The commissioner of administration shall report the rates to be charged for the general services revolving funds no later than July 1 each year to the chair of the committee or division in the senate and house of representatives with primary jurisdiction over the budget of the Department of Administration. The commissioner of finance shall make appropriate transfers to the revolving funds described in this section when requested by the commissioner of administration. The commissioner of administration may make allotments, encumbrances, and, with the approval of the commissioner of finance, disbursements in anticipation of such transfers. In addition, the commissioner of administration, with the approval of the commissioner of finance, may require an agency to make advance payments to the revolving funds in this section sufficient to cover the agency's estimated obligation for a period of at least 60 days. All reimbursements and other money received by the commissioner of administration under this section must be deposited in the appropriate revolving fund. Any earnings remaining in the fund established to account for the documents service prescribed by section 16B.51 at the end of each fiscal year not otherwise needed for present or future operations, as determined by the commissioners of administration and finance, must be transferred to the general fund.

Subd. 5. **Liquidation.** If the general services revolving funds are abolished or liquidated, the total net profit from the operation of each fund must be distributed to the various funds from which purchases were made. The amount to be distributed to each fund must bear to the net profit the same ratio as the total purchases from each fund bears to the total purchases from all the funds during the same period of time.

**History:** 2005 c 156 art 5 s 4,5

#### 16B.49 CENTRAL MAILING SYSTEM.

(a) The commissioner shall maintain and operate for state agencies, departments, institutions, and offices a central mail handling unit. Official, outgoing mail for units in St. Paul must be delivered unstamped to the unit. The unit shall also operate an interoffice mail distribution system. The department may add personnel and acquire equipment that may be necessary to operate the unit efficiently and cost-effectively. Account must be kept of the postage required on that mail, which is then a proper charge against the agency delivering the mail. To provide funds for the payment of postage, each agency shall make advance payments to the commissioner sufficient to cover its postage obligations for at least 60 days. For purposes of this section, the Minnesota State Colleges and Universities is a state agency.

(b) Notwithstanding paragraph (a) or section 16C.09, the commissioner may approve the performance of mail-related functions by an agency outside the state's central mail-handling unit if the agency demonstrates it furthers program effectiveness, better use of services, greater efficiency, or greater economy in state government.

**History:** 1Sp2005 c 6 art 3 s 2

16B.52 [Repealed, 2005 c 156 art 2 s 52]

#### 16B.61 GENERAL POWERS OF COMMISSIONER; STATE BUILDING CODE.

*[For text of subs 1 to 7, see M.S. 2004]*

Subd. 8. **Separate metering for electric service.** The standards concerning heat loss, illumination, and climate control adopted pursuant to subdivision 1, shall require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

**History:** 1977 c 381 s 18; 1978 c 786 s 2,3; Ex1979 c 2 s 29-31; 1980 c 579 s 9; 1981 c 85 s 5; 1981 c 255 s 2,5; 1981 c 356 s 154-158,248; 1981 c 365 s 9; 1982 c 424 s 23-25,130; 1983 c 301 s 125,126; 1984 c 595 s 1-5; 1984 c 640 s 32; 1986 c 444; 1987 c 258 s 12; 1987 c 291 s 196; 1987 c 312 art 1 s 10 subd 1; 1989 c 209 art 2 s 1; 1989 c 246 s 2; 1995 c 233 art 2 s 56; 1Sp1995 c 3 art 16 s 13; 1997 c 183 art 3 s 27; 2000 c 297 s 3; 2005 c 97 art 4 s 6