

**16C.09 PROCEDURE FOR SERVICE CONTRACTS.**

(a) Before entering into or approving a service contract, the commissioner must determine, at least, that:

- (1) no current state employee is able and available to perform the services called for by the contract;
- (2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities and there is statutory authority to enter into the contract;
- (3) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;
- (4) the contractor and agents are not employees of the state;
- (5) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and
- (6) the combined contract and amendments will not exceed five years without specific, written approval by the commissioner according to established policy, procedures, and standards, or unless otherwise provided for by law. The term of the original contract must not exceed two years, unless the commissioner determines that a longer duration is in the best interest of the state.

(b) For purposes of paragraph (a), clause (1), employees are available if qualified and:

- (1) are already doing the work in question; or
- (2) are on layoff status in classes that can do the work in question.

An employee is not available if the employee is doing other work, is retired, or has decided not to do the work in question.

(c) This section does not apply to an agency's use of inmates pursuant to sections 241.20 to 241.23 or to an agency's use of persons required by a court to provide:

- (1) community service; or
- (2) conservation or maintenance services on lands under the jurisdiction and control of the state.

**History:** 1998 c 386 art 1 s 10; 1999 c 230 s 2; 2005 c 136 art 13 s 1