

~~(1) -- THE GENERAL ASSEMBLY HAS MANDATED -- OR -- AUTHORIZED THE PERFORMANCE OF THE SERVICES BY AN INDEPENDENT CONTRACTOR;~~

EXCEPT WHERE THE GENERAL ASSEMBLY HAS MANDATED OR AUTHORIZED THE PERFORMANCE OF THESE SERVICES BY AN INDEPENDENT CONTRACTOR, A SERVICE CONTRACT MAY BE CERTIFIED BY THE DEPARTMENTS AS EXEMPT FROM THE PREFERENCE STATED IN § 8-802 OF THIS SUBTITLE IF IT FALLS WITHIN ONE OR MORE OF THE FOLLOWING CLASSES:

(2) (1) THE SERVICES TO BE CONTRACTED FOR ARE NOT AVAILABLE FOR PERFORMANCE BY STATE EMPLOYEES;

(3) (2) THE SERVICES ARE INCIDENTAL TO A CONTRACT FOR THE PURCHASE OR LEASE OF REAL OR PERSONAL PROPERTY. A CONTRACT IN THIS CLASSIFICATION MAY INCLUDE A "SERVICE AGREEMENT" ATTENDANT TO THE PURCHASE OR RENTAL OF OFFICE EQUIPMENT OR COMPUTERS;

(4) (3) THERE IS A CLEAR NEED TO OBTAIN INDEPENDENT AND UNBIASED FINDINGS OR OPINIONS. A CONTRACT IN THIS CLASSIFICATION MAY INCLUDE OBTAINING THE SERVICES OF AN EXPERT WITNESS IN LITIGATION;

(5) (4) A CONFLICT OF INTEREST WOULD RESULT FROM PERFORMANCE OF THE SERVICES BY A STATE EMPLOYEE; OR

(6) (5) THE NATURE OF THE WORK FALLS WITHIN THE DEPARTMENT OF PERSONNEL'S STANDARDS FOR EMERGENCY APPOINTMENTS.

10-105- 8-805.

(A) A PROCUREMENT AGENCY THAT SEEKS TO ENTER INTO A SERVICE CONTRACT SHALL SUBMIT DATA TO THE DEPARTMENTS SHOWING AN ACTUAL COST SAVINGS FOR THE STATE UNDER THE CONTRACT AS COMPARED TO PERFORMANCE OF THE WORK BY STATE EMPLOYEES.

(B) THE COST SAVINGS CALCULATED OVER THE DURATION OF THE CONTRACT SHALL BE AT LEAST:

(1) 20 PERCENT FOR ANY SERVICE CONTRACT COSTING UP TO \$1,000,000; AND OR

(2) \$200,000 FOR ANY SERVICE CONTRACT COSTING IN EXCESS OF \$1,000,000.

(C) IN CALCULATING THE COST COMPARISON, THE PROCUREMENT AGENCY SHALL INCLUDE THE FOLLOWING:

(1) DIRECT COSTS, INCLUDING FRINGE BENEFITS;

(2) INDIRECT OVERHEAD COSTS, WHICH SHALL INCLUDE ONLY THOSE COSTS THAT CAN BE ATTRIBUTED SOLELY TO THE WORK IN QUESTION AND THAT WOULD NOT EXIST IF THE WORK WERE NOT PERFORMED BY STATE EMPLOYEES. INDIRECT OVERHEAD COSTS SHALL INCLUDE THE PRO RATA SHARE OF EXISTING ADMINISTRATIVE SALARIES AND BENEFITS, RENTS, EQUIPMENT COSTS, UTILITIES, AND MATERIALS;