

THE DEPARTMENTS MAY CERTIFY A SERVICE CONTRACT TO THE BOARD OF PUBLIC WORKS AS PROVIDED IN THIS SECTION.

(B) EXEMPT CONTRACTS.

THE DEPARTMENTS MAY CERTIFY A SERVICE CONTRACT AS BEING EXEMPT FROM THE PREFERENCE STATED IN § 12-402 OF THIS SUBTITLE IF:

(1) STATE EMPLOYEES ARE NOT AVAILABLE TO PERFORM THE SERVICES;

(2) A CONFLICT OF INTEREST WOULD RESULT IF A STATE EMPLOYEE WERE TO PERFORM THE SERVICES;

(3) THE NATURE OF THE SERVICES MEETS THE STANDARDS SET BY THE DEPARTMENT OF PERSONNEL FOR EMERGENCY APPOINTMENTS;

(4) THE SERVICES ARE INCIDENTAL TO THE PURCHASE OR LEASE OF PERSONAL PROPERTY OR REAL PROPERTY, SUCH AS A SERVICE AGREEMENT THAT IS PART OF THE PURCHASE OR RENTAL OF COMPUTERS OR OFFICE EQUIPMENT; OR

(5) A CLEAR NEED EXISTS TO OBTAIN AN UNBIASED FINDING OR OPINION, SUCH AS AN EXPERT WITNESS IN LITIGATION.

(C) NONEXEMPT CONTRACTS.

THE DEPARTMENTS MAY CERTIFY A SERVICE CONTRACT THAT IS NOT EXEMPT UNDER SUBSECTION (B) OF THIS SECTION ONLY IF:

(1) THE UNIT THAT SEEKS TO ENTER INTO THE SERVICE CONTRACT HAS COMPLIED WITH § 12-405 OF THIS SUBTITLE; AND

(2) THE DEPARTMENTS FIND THAT:

(I) THE POTENTIAL ECONOMIC ADVANTAGE OF ENTERING INTO THE SERVICE CONTRACT IS NOT OUTWEIGHED BY THE PREFERENCE STATED IN § 12-402 OF THIS SUBTITLE;

(II) THE SERVICE CONTRACT DOES NOT ADVERSELY AFFECT THE AFFIRMATIVE ACTION EFFORTS OF THIS STATE;

(III) THE SERVICE CONTRACT INCLUDES ADEQUATE CONTROL MECHANISMS TO ENSURE THAT THE SERVICES WILL BE PERFORMED IN ACCORDANCE WITH THE SERVICE CONTRACT; AND

(IV) THE SERVICE CONTRACT COMPLIES WITH ALL OF THE REQUIREMENTS OF DIVISION II OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 64A, § 59(1) and (2), § 63, and, except for its introductory exception, § 60.