

## Department of Administrative Services - State Accounting Enterprise

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<b>Subject</b> MISCELLANEOUS SERVICES CONTRACTING			

### 1. **Services Contracts Defined**

Services contracts are contracts entered into by a state department to aid in carrying out its programs and to provide specialized services through an independent contractor qualified by education, experience and/or technical ability. Services contracts may be with individuals, partnerships, firms, corporations, or other business entities.

*"Service or services"* means work performed for a department or establishment or for its clients by a service provider and includes, but is not limited to:

- a. Professional or technical expertise provided by a consultant, advisor or other technical or service provider to accomplish a specific study, review, project, task, or other work as described in the scope of work. By way of example and not by limitation, these services may include the following: accounting services, appraisal services, analysis and assessment of processes, programs fiscal impact compliance, systems and the like, auditing services, communications, peer reviewers, attorneys, financial advisors, expert witnesses for litigation, architectural services, information technology consulting services, investment advisors and managers, marketing services, policy development and recommendations, program development, public involvement services and strategies, research services, scientific and related technical services, software development and system design, underwriters, physicians, pharmacists, engineers, and architects; or
- b. Services provided by a vendor to accomplish routine functions. These services contribute to the day-to-day operations of state government. By way of example and not by limitation, these services may include the following: ambulance service, aerial surveys, aerial mapping and seeding, charter service, boiler testing, bookkeeping service, building alarm systems service and repair, commercial laundry service, communications systems installations servicing and repair, court reporting and transcription services, engraving service, equipment or machine installation, preventive maintenance, inspection, calibration and repair, heating ventilation and air conditioning (HVAC) system maintenance service, janitorial service, painting inside and outside, pest weed control service, grounds maintenance, mowing, parking lot sweeping and snow removal service, towing service, translation services, and travel service.

*"Service contract"* means a contract for a service or services where the predominant factor, thrust, and purpose of the contract as reasonably stated is for the provision or rendering of services.

Where there is a mixed contract for goods and services, and the predominant factor, thrust and purpose of the contract as reasonably stated is for the provision or rendering

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of services with goods incidentally involved, a service contract exists and these rules apply.

A service contract includes grants when the predominant factor, thrust, and purpose of the contract memorializing the grant is for the provision or rendering of services.

### 2. Policy Statement and Purpose

- a. It is the policy of the State of Iowa that the expenditure of public funds for service contractors shall, insofar as practicable, is done through an open, competitive process.
- b. This policy is to be used when determining the Employer/Employee Relationships, and working with the Pre-Contract Questionnaire (PCQ), SS-8, and payment processes.
- c. Contracts between state departments, political subdivisions of the State of Iowa, federal government agencies, another state government, or a political subdivision thereof are exempt from the PCQ process, per 11 IAC 118.4.
- d. Contracts under \$1,000.00 (plus allowable expenses) are exempt from the Pre-Contract Questionnaire (PCQ) process.

### 3. Basic Contracting Procedures

- a. Procurement of services, which are information technology related, requires review and approval by the Office of the Chief Information Officer (OCIO) prior to contacting potential contractors or solicitation of services. See Iowa Code Chapter 8A.207.
- b. See DAS-Central Procurement Fleet & Services (CPFSE) Administrative Rules Chapters 117-121.

### 4. Determination of Employer/Employee Relationship, PCQ, SS-8

- a. Prior to signing a contract, DAS-SAE Accounting personnel must determine whether or not the contractor has an employer/employee relationship with the state. Contracts that create an employer/employee relationship are not allowed. See 6 below, if an employer/employee relationship exists.

**Prior to signing a contract**, the department must review the VCUST (Vendor Customer Table) in the Iowa statewide accounting system (I/3). When DAS-SAE has reviewed and determined no employer/employee relationship with the state exists, SAE will enter the SAE Control Number in the SAE Control Number field on the VCUST table. The SAE Control Number is only entered on the headquarters account.

If an individual or company has the SAE Control Number field populated, enter the SAE Control Number on the [Pre-Contract Questionnaire](#) document and complete other department actions on the contract.

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- b. If the individual or company does not have an SAE Control Number, then PRIOR to signing the contract the department MUST prepare and submit the signed Pre-Contract Questionnaire, the proposed unsigned contract, and if not contracting with a corporation, a completed Internal Service (IRS) for [SS-8](#) or a [Substitute SS-8](#) document to DAS-SAE Accounting.
- c. If contracting with a group of individuals who will perform essentially the same function for the state and who will have essentially the same working relationship with the state, only one SS-8 form need be prepared. In preparing a "generic" SS-8, a statement must be attached outlining the estimated number of individuals per contract period. If the generic SS-8 must be later modified, then a new generic SS-8 must be processed through DAS-SAE Accounting for approval.
- d. If the contract is between the department and an individual, and the service is to be performed in three (3) days or less, and sufficient evidence can be presented as part of the Pre-Contract Questionnaire or attachments, it will allow DAS-SAE Accounting to ascertain that no employer/employee relationship exists and no SS-8 need be completed.
- e. In addition to the SS-8, a recap of the Common Law Rules used by the IRS to determine the presence of an employer/employee relationship is included on page 5 for guidance.
- f. If the contractor does not have the SAE Control Number, then the completed SS-8, if not contracting with a corporation, along with the proposed, unsigned contract, must be attached to the Pre-Contract Questionnaire when it is submitted to DAS-SAE Accounting. In certain instances, the contractor may be required to complete IRS form W-9, Request for Taxpayer Identification Number Certification.

DAS-SAE Accounting will review the proposed, unsigned contract to determine if an employee/employer relationship will exist. If, after review of the Pre-Contract Questionnaire and supporting documents, DAS-SAE Accounting concludes that an employer/employee relationship will exist, the department must either select another contractor that will meet the independent contractor test or use the State's third-party contract with Temporary Staffing Services to pay the contractor.

- g. After DAS-SAE review, the Pre-Contract Questionnaire and supporting materials will be returned.
- h. Contracted services are not to be performed until all signatures are obtained and distribution of contract copies are made to the parties.
- i. The contract shall specify a start and ending date. Departments shall not enter into a service contract for a period of longer than six years, including extensions, unless they receive a waiver of the duration limitation according to the procedures identified in 11 IAC 118.16(8A).

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- j. Contracts should include a termination clause including a non-appropriation clause. Service contracts may cross biennial and fiscal year lines, and when they do cross fiscal years, the contract must specifically include a non-appropriation provision.
- k. Create a sufficient number of copies of the contract so the state department maintains a copy for its file, a copy shall be attached to the document in I/3, and a copy for the contractor.

### 5. **Contract Payments**

- a. The payment document, a General Accounting Transition (GAX), Procurement Document Correction (PRC) or the first payment in a series requires:
  - 1) A copy of the original contract signed by both parties
  - 2) A copy of the completed, signed Pre-Contract Questionnaire (PCQ) with SAE Control Number
  - 3) A copy of the Report of Sole Source Procurement if applicable (DAS-CPFSE form)
  - 4) A copy of the Report of Emergency Procurement if applicable (DAS-CPFSE form)
  - 5) The original invoice or original claimant signature
- b. Subsequent payments shall include the following information on the document:
  - 1) The number of payments processed in contract sequence
  - 2) The document number and date the initial claim of this contract series was processed through I/3. The initial claim of the series will have the contract attached.
  - 3) Original invoice or the individual's signature
- c. Amended contract payment documents:
  - 1) Attach a copy of the signed amendment
  - 2) Amended PCQ, only if the employer/employee relationship changed
  - 3) Make a reference to the document number and paid date of the first payment document.
  - 4) On any subsequent payments, reference the document number and paid date where the amendments are attached.
- d. Object Codes: Proper object codes shall be used. When paying attorneys, use 2462 Legal Fees, 2553 Adult Contract Legal Fees, and 2554 for Juvenile Contract Legal Fees. For other contractual services use the proper object code found in I/3 on the object table (OBJ).
- e. Expense Reimbursements: When part of the contract includes specifically reimbursing individuals for expenses, the reimbursement shall not exceed the limits established for board

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and commission members. See Procedures 210.245 and 210.305. It is the department's responsibility to ensure the appropriate rates are written into the contracts.

- f. Payment documents for contracts with individuals must contain the Taxpayer Identification Number (TIN).
- g. When payment is made on a PRC in which a DAS-CPFSE contract is referenced, the department is responsible for the PCQ and that department shall attach the Pre-Contract Questionnaire referencing the SAE Control Number.
- h. Contracts in which the dollar amount is unknown, such as when payment is based on a percent of recoveries, certain generic contracts, etc., MUST have the Pre-Contract Questionnaire and the contract signed by the Department Director or Designee.
- i. Advance Payments: See Procedure 230.550.

6. **Common Law Rules** *For use in determining the existence of an employer/employee relationship.*

Facts that provide evidence of the degree of control and independence fall into three categories:

1. Behavioral - Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. Financial - Are the business aspects of the worker's job controlled by the payer? These include how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.
3. Type of Relationship - Are there written contracts or employee type benefits; i.e. pension plan, insurance, vacation pay, etc.? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate the worker is an employee, while other factors indicate the worker is an independent contractor. There is no set number of factors that dictates the worker as an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another.

The keys are to review the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in the final determination.