At request of Rep. Carolyn Pease Lopez:

2-15-142. Guiding principles. In formulating or implementing policies or administrative rules that have direct tribal implications, a state agency should consider the following principles:

(1) a commitment to cooperation and collaboration;

(2) mutual understanding and respect;

(3) regular and early communication;

(4) a process of accountability for addressing issues; and

(5) preservation of the tribal-state relationship.

History: En. Sec. 2, Ch. 568, L. 2003.

Compiler's Comments:

Preamble: The preamble attached to Ch. 568, L. 2003, provided: "WHEREAS, the Legislature recognizes the right of tribes to self-government; and

WHEREAS, the Legislature supports tribal sovereignty and self-determination; and

WHEREAS, the Legislature recognizes the fundamental principle and integrity of the government-to-government relationship between the State of Montana and the Indian Nations of Montana; and

WHEREAS, the Legislature supports strengthening communications and building collaborative relationships that will benefit both the Indian Nations and the State of Montana."

Effective Date: This section is effective October 1, 2003.

18-4-313. Contracts -- terms, extensions, and time limits. (1) Except as provided in subsection (2) or unless otherwise provided by law, a contract, lease, or rental agreement for supplies or services may not be made for a period of more than 7 years. A contract, lease, or rental agreement may be extended or renewed if the terms of the extension or renewal, if any, are included in the solicitation, if funds are available for the first fiscal period at the time of the agreement, and if the total contract period, including any extension or renewal, does not exceed 7 years. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of funds for the fiscal periods.

(2) The contract term limit specified in subsection (1) does not apply to:

(a) a contract for hardware, software, or other information technology resources, which may be made for a period not to exceed 10 years;

(b) a department of revenue liquor store contract governed by the term specified in 16-2-101;

(c) a department of corrections contract governed by the term specified in 53-1-203, 53-30-505, or 53-30-608; and

(d) the department of administration state employee group benefit plans contracts governed by the term specified in 2-18-811, including group benefit plan contracts made in partnership with the Montana university system group benefit plan.

(3) Prior to the issuance, extension, or renewal of a contract, it must be determined that:

(a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) the contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement.

(4) If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract must be canceled.

History: En. Sec. 24, Ch. 519, L. 1983; amd. Sec. 1, Ch. 121, L. 1985; amd. Sec. 3, Ch. 228, L. 1993; amd. Sec. 12, Ch. 130, L. 1995; amd. Sec. 63, Ch. 546, L. 1995; amd. Sec. 22, Ch. 181, L. 2001; amd. Secs. 40, 46, Ch. 313, L. 2001; amd. Sec. 8, Ch. 289, L. 2005; amd. Sec. 2, Ch. 127, L. 2007.

Compiler's Comments:

2007 Amendment: Chapter 127 inserted (2)(d) concerning state employee group benefit plans; and made minor changes in style. Amendment effective July 1, 2007.

2005 Amendment: Chapter 289 in (1) at beginning inserted exception clause and deleted former second sentence that read: "However, the department may contract for hardware, software, or other information technology resources, the department of revenue may contract with liquor agencies, and the department of public health and human services may contract for the medicaid management information system (MMIS) for a period not to exceed 10 years"; inserted (2) concerning exceptions from contract term limit; and made minor changes in style. Amendment effective July 1, 2005.

2001 Amendments -- Composite Section -- Coordination: Chapter 181 in (1) near middle of second sentence after "purchase of" substituted "hardware, software, or services for telecommunications or data processing" for "telecommunications equipment and systems, data processing equipment"; and made minor changes in style. Amendment effective October 1, 2001. The amendment by Ch. 313 rendered the reference to services for telecommunications or data processing meaningless, and it has not been codified.

Chapter 313 in (1) in second sentence substituted "contract for hardware, software, or other information technology resources" for "contract for the lease or purchase of telecommunications equipment and systems, data processing equipment"; and made minor changes in style. Amendment effective July 1, 2001.

Pursuant to sec. 46, Ch. 313, L. 2001, a coordination section, the amendment to this section made by sec. 40, Ch. 313, L. 2001, was replaced by the amendment made by sec. 46.

Applicability: Section 28, Ch. 181, L. 2001, provided: "[This act] applies to contracts for which the contracting government entity begins the contracting process after October 1, 2001."

1995 Amendments: Chapter 130 in (1), near beginning of first sentence, substituted "for a period of more than 7 years" for "for a longer period than 3 years" and in second sentence, after "renewed", deleted "notwithstanding the time limits stated in this section" and at end inserted "and if the total contract period, including any extension or renewal, does not exceed 7 years"; in (2) inserted "issuance" and after "determined" deleted "in writing"; and made minor changes in style. Amendment effective March 13, 1995.

Chapter 546 in (1), in second sentence, substituted "department of public health and human services" for "department of social and rehabilitation services"; and made minor changes in style. Amendment effective July 1, 1995.

Saving Clause: Section 571, Ch. 546, L. 1995, was a saving clause.

1993 Amendment: Chapter 228 in (1), in second clause of first sentence, inserted "the department of revenue liquor agencies"; and made minor changes in style. Amendment effective March 30, 1993.

Applicability: Section 6, Ch. 228, L. 1993, provided: "[This act] applies to all agency franchise agreements entered into 6 months after [the effective date of this act]." Effective March 30, 1993.

1985 Amendment: In middle of (1) inserted "the department of social and rehabilitation services medicaid management information system (MMIS)".

Cross References:

Information technology, Title 2, ch. 17, part 5.

Alcohol administration and taxation, Title 16, ch. 1.

Retroactive application, 18-4-132.

Contracts -- what is unlawful, 28-2-701.

Time of performance, Title 28, ch. 3, part 6.

Medical assistance -- Medicaid, Title 53, ch. 6, part 1.

Collateral References:

73A C.J.S. Public Contracts §§ 27, 28.

64 Am. Jur. 2d Public Works and Contracts §§ 24, 109, 110.