

Is an Interagency Agreement (IA) considered a type Personal Services contract and therefore subject to the requirements of the CMS laws?

Yes. The law distinguishes between the *type* of contract, not between the *class/category* of the individual/entity entering into the agreement. As such, two governmental agencies can enter into a form or personal services contract which has been labeled an “Interagency Agreement.” The provisions of § 24-102-205 apply to *any* personal services contract to which the State is a party – in the case of Interagency Agreements, the State happens to be *both* of the parties, however, this does not take away from the fact that payment is being made by one party (the Paying State entity) to another party (the Receiving State entity) in exchange for goods and or services.

Given that the statutory provisions do not create an exception for Interagency Agreements, this type of Personal Services contract must be entered into the new Contract Management system for *tracking purposes* only. The evaluation and rating provisions will not, however, apply when two State entities have entered into an agreement. The Office of the State Controller intends to issue a policy addressing this position which will serve to meet the tracking and transparency intent of the legislature in passing SB 07-228 while allowing for continued forthright relationships between the two contracting State entities.

What language in the form contracts relates to the CMS requirements?

The relevant provision is “§19 STATEWIDE CONTRACT MANAGEMENT SYSTEM” in the Personal Services and the Grant templates. This language is not required and therefore does not appear in the Interagency Agreement and Lease Templates.

The law addresses identification of employment positions to be filled under the contract that was previously filled by a State employee as well as the cost saving/quality improvement gained by the State as a result of the contract. This is already covered in the Personal Services Certification form required by Human Resources. Is additional documentation now necessary?

The statewide Contract Management System will contain a checkbox option to confirm (Yes or No) whether a Personal Services Certification form was completed. Additional documentation will not be required.

Does CMS apply to Intergovernmental Contracts?

Intergovernmental Contracts are subject to the requirements of the Statewide Contract Management System where the State is the payor. The statutory provisions do not create an exception for Intergovernmental Contracts. Unlike an Interagency Agreement, in which the *State* represents both of the parties, an Intergovernmental Contract has a party that is *not* a State agency.

For example, when a State agency enters into a contract in which the State pays monies for services from another governmental entity, these intergovernmental contracts are subject to the requirements of the Statewide Contract Management System. Covered Intergovernmental Contracts include situations where the State pays monies for services from a Colorado political subdivision such as a local municipality, another State, or the federal government.

Intergovernmental Contracts for personal services where the State is the payor must be entered into the new Contract Management System for *both* tracking *and* rating purposes. Intergovernmental agreements in which the State of Colorado receives funds are not covered by the requirements of the Contract Management System.

Do I create a new record for an Amendment? An Option Letter? A Funding Letter?

Yes, each of these forms of contract modification tools will require creation of a new record in Contract Insight. The two records are then associated by use of the “Link” function.

- a. If the original contract was entered into *before* July 1, 2009, the field “Original Contract CLIN Number,” will be used to record the original contract number assigned in CLIN.
- b. If the original contract was entered into *after* July 1, 2009, and was assigned a Contract Number in Contract Insight, the “Contract Title” field in the new record will be entered as “Amendment #__ to Contract Number _____.” This process will help to associate the two records on the details screen and make immediately clear what type of document the record reflects – an original contract, an Amendment, an Option, etc.
- c. The copy function can be used for modification tools since in most cases the records will be exact except for changes to dollars, and end date. Applicable fields would be changed to reflect the specific modification. For example, An Option Letter to extend the term of a contract for an additional year would require at least a change to the “Expiration Date of the Contract,” field. A Funding Letter would require at least a change to the “Maximum Contract Amount,” field.

What happens to the Vendor Evaluation Form once it is completed at the end of a contract term?

The statute requires that the State send a copy of the vendor evaluation to the vendor for review and comment. The evaluation and any response submitted by the vendor shall be added to the statewide CMS and maintained as part of the vendor's contract file. Within 30-days after completion of the contract term, the evaluation and response that the vendor submits (if any) shall become publicly available as part of the State's searchable website. C.R.S. §24-102-205(6)

This means is that once the form is completed, the vendor should be sent a copy for review and comment. In order to ensure the vendor has time to review and comment prior to posting of the evaluation rating on the public website within 30-days, the following process is recommended (each agency/IHE should adapt to their own internal procedure):

1. Complete the Vendor Evaluation Form and assign a final rating for the contract term.
2. Enter the rating into CMS. (Field → “Final Contractor/Vendor Rating”)
3. Forward an electronic or hardcopy version of the form to the vendor within one week of the end of the contract term explaining its purpose and requesting that any comment be submitted within two weeks of receipt. Enter the date forwarded to the vendor into CMS. (Field → “When was the Final Rating sent to the Contractor/Vendor?”)
4. If comments are received from the vendor, enter those into the appropriate field(s). If submitted electronically, copy specific comments into the “Contractor/Vendor Comments” field. These will appear on the public website along with the final rating. (Fields → “did the Contractor/Vendor submit Comments as to the State’s performance under the Contract?” did the Contractor/Vendor submit responses to its Final Evaluation?” Did the Contractor/Vendor DISPUTE the Evaluation?” “Contractor/Vendor Comments”).
5. Attach a copy of the Vendor Evaluation Form and any vendor comments to the contract record in CMS.
6. Retain a hardcopy of the Vendor Evaluation Form and any vendor comment in the main contract file.