



ADMINISTRATIVE RULES OF MONTANA



24.17.161 DIVIDING PROJECTS PROHIBITED

- (1) Public contracting agencies shall not divide a public works project into more than one contract for the purpose of avoiding compliance.
- (2) When making a determination of whether the public agency divided a contract to avoid compliance, the commissioner shall consider the facts and circumstances in any given situation including, but not limited to, the following matters:
 - (a) the physical separation of project structures;
 - (b) whether a single public works project includes several types of improvements or structures;
 - (c) the anticipated outcome of the particular improvements or structures the agency plans to fund;
 - (d) whether the structures or improvements are similar to one another and combine to form a single, logical entity having one overall purpose or function;
 - (e) whether the work on the project is performed in one time period or in several phases as components of a larger entity;
 - (f) whether a contractor, subcontractor or employer and their employees are the same or substantially the same throughout the particular project;
 - (g) the manner in which the public contracting agency and the contractors, subcontractors or employers administer and implement the project; and
 - (h) other relevant matters as may arise in any particular case.
- (3) When the commissioner determines that a public contracting agency has divided a public works project to avoid compliance, the commissioner shall issue an order compelling compliance. The order shall be written and shall offer the public contracting agency the opportunity to contest the order.

Authorizing statute(s): 18-2-431, MCA

Implementing statute(s): 18-2-401, 18-2-402, 18-2-403, MCA

History: NEW, 2002 MAR p. 2446, Eff. 9/13/02.