

**441—2.2(23A,225C) Contracts for use of the services of department employees.** All determinations regarding whether the department shall enter into a contract for services shall be made by the director of the department or designee. All determinations are considered final and binding and are not subject to appeal. The director of the department or designee shall weigh the following criteria in making the decision.

**2.2(1) *Expertise.*** Department employees shall possess certain expertise and skills needed by a contractor.

**2.2(2) *Mutual benefit.*** There shall be a mutual benefit to the department and the contractor.

**2.2(3) *Payment.*** Payment for the full cost, both direct and indirect, of department employees shall be received from the contractor.

**2.2(4) *Supplementation of services.*** The intent of the department is to permit its employees to provide services to on-campus lessees. Department employees may supplement the direct service provided by the contractor, but department employees shall not assume full responsibility for the care and treatment of consumers of services of the contractor.

**2.2(5) *Use of department employees.*** Department employees shall not be used to fill vacancies of full-time staff positions of the contractor, nor can the full time of a single department employee be contracted to a single contractor. For time-limited periods, and when it is in the best interest of the state, a state institution, with approval of the director of the department and the director of the Iowa department of personnel, may contract to provide department employees to a contractor on a full-time basis.

**2.2(6) *Nonprofit status.*** Department employees shall only be contracted out to nonprofit entities as defined by Iowa Code chapter 504A.

**2.2(7) *Conflict of interest.*** A contract shall not be entered into if it creates a conflict of interest as defined by Iowa and federal law for either the department employees, the department in general, the state of Iowa, or the contractor.

**2.2(8) *Services to department clients.*** Department employees' time shall be made available to a potential contractor only if it can be done without harm to the department's institution clients who are receiving services on an inpatient or outpatient basis.

**2.2(9) *Subcontracting.*** The department shall not subcontract out the time or services of a person under contract to the department. Persons who perform services as independent contractors to the state of Iowa, pursuant to a personal services contract, shall not be included in any agreement entered into pursuant to this chapter. However, this does not prohibit an independent contractor from directly entering into a contractual relationship with a contractor.