

## V. AGO CERTIFICATION FOR BARGAINING AGREEMENT(S) COMPLIANCE

The AGO must determine whether a Contract for Service is contrary to the spirit and intent of the classification plan and merit system and standards under [3 V.S.A. § 342](#).

*The AGO Certification process has two parts. The AGO will determine if all three Part 1 criteria apply to the contract. If the contract meets ONE or TWO, but not ALL THREE of the criteria below, proceed to Part 2 of the AGO Compliance Certification process outlined below. (See also [3 V.S.A. § 342](#))*

### A. Part 1 - AGO Certification

The AGO Compliance Certification is applied on an Agency-by-Agency basis. Therefore, the TEST only applies to **THE** Agency and not to the State as a whole. For example, if DII is staffed with IT Project Managers, a DII contract for an IT Project Manager would not pass the AGO Certification. However, if **THE** Agency is not staffed with IT Project Managers and were to contract for one, **THE** Agency may not have an issue with the AGO Certification.

First, a contract will be reviewed to determine if ALL of the following three requirements are met:

1. The Agency will not supervise the daily activities or methods and means by which the contractor provides services, other than supervision necessary to ensure the contractor meets contractual performance expectations and standards;  
**AND**
2. The services provided are not the same as those provided by classified state employees within the Agency;  
**AND**
3. The contractor customarily engages in an independently established trade, occupation, profession or business.

*[Continued next page.]*

**B. Part 2 - AGO Certification**

*If the proposed contract does not meet **ALL THREE** of the above Part 1 criteria, then **YOUR** Agency must consider whether the contract meets **ANY ONE** of the following exceptions:*

1. The services are not available within the Agency or are of such a highly specialized or technical nature that the necessary knowledge, skills or expertise is not available within the Agency.
2. The services are incidental to a contract for purchase or lease of real or personal property.
3. There is a demonstrated need for an independent audit, review or investigation; or independent management of a facility is needed as a result of, or in response to, an emergency such as licensure loss or criminal activity.
4. The state is not able to provide equipment, materials, facilities or support services in the location where the services are to be performed in a cost-effective manner.
5. The contract is for professional services, such as legal, engineering, or architectural services, that are typically rendered on a case-by-case or project-by-project basis, and the services are for a period limited to the duration of the project, normally not to exceed two years or provided on an intermittent basis for the duration of the contract.
6. The need for services is urgent, temporary or occasional, such that the time necessary to hire and train employees would render obtaining the services from state employees imprudent. Such contract shall be limited to 90 days' duration, with any extension subject to review and approval by the Secretary of Administration.
7. Contracts for the type of services covered by the contract are specifically authorized by law.
8. Efforts to recruit state employees to perform work, authorized by law, have failed in that no applicant meeting the minimum qualifications has applied for the job.
9. The cost of obtaining the services by contract is lower than the cost of obtaining the same services by utilizing state employees. When comparing costs, the provisions of section [3 V.S.A §343](#) shall apply.

[END SECTIONS IV-V]