§ 3-0309. Stand-by contracts.

1. Consistent with the commissioner's authority to undertake such activities pursuant to this chapter, the state public health law, the public authorities law and the state finance law, the commissioner may enter into stand-by contracts for the purpose of achieving timely and effective remedies in a cost-effective manner for:

a. services related to a release or a suspected release of a hazardous substance as defined in section 40-0105 of this chapter and regulations promulgated thereunder;

b. other than for major physical construction associated with permanent remedial actions, the cleanup or return to its original state of any area where hazardous wastes were disposed, possessed, or dealt in unlawfully in violation of section 27-0914 of this chapter;

c. emergency response action to clean up spills or abate other public health or environmental hazards involving hazardous wastes; and

d. other than for major physical construction associated with permanent remedial actions, all services related to the investigation in support of, or to the development, implementation and oversight of the program for remediation of inactive hazardous waste disposal sites pursuant to article 27 of this chapter.

2. For the purposes of this section, a stand-by contract shall mean a contract which provides for services and goods to be rendered to the department, at prenegotiated rates or predetermined unit prices, with such services or goods to be supplied by the contractor only when and where directed to do so by the commissioner. All such contracts shall be subject to the approval of the state comptroller in accordance with section one hundred twelve of the state finance law; however, such approval shall not obligate to any particular contract any specific amount of funds, but shall obligate on an individual basis, as such contracts are utilized, the actual amount required to pay for work performed pursuant to such contracts except that a maximum dollar amount

shall be placed on each such contract. Any necessary approvals of availability of funds for a particular project in accordance with any provision of the state finance law shall be made as soon as possible after any activity identified in subdivision one of this section is ordered by the commissioner, or undertaken by the contractor.

3. Nothing in this section shall be deemed to alter the authority conferred upon the commissioner to conduct the activities identified in subdivision one of this section, or to modify the requirements which are established by this chapter, the state public health law, the public authorities law, or section ninety-seven-b of the state finance law and are applicable to such activities.

4. The department in cooperation with the state comptroller shall as soon as practicable and prior to the execution of stand-by contracts pursuant to this section develop and implement a stand-by contract management protocol system. Such system shall provide for but not be limited to:

a. guidelines for selecting contractors based upon section one hundred thirty-six-a of the state finance law, if applicable, and upon other factors which shall include but are not limited to past performance, reasonableness of prices charged for specific tasks, and overall qualifications of the contractor;

b. departmental bid or proposal analysis and negotiation documentation requirements;

c. contractor reporting and documentation requirements;

d. formal procedures for inspecting contractor work and reviewing payment requests;

e. maintenance of equipment inventory with location; and

f. requirements and controls for subcontractors.

5. The department shall submit to the director of the division of the budget, the temporary president and minority leader of the senate, the speaker and minority leader of the assembly, the chairman and ranking minority member of the senate finance committee and the chairman and ranking minority member of the assembly ways and means committee an evaluation and audit of the department's use of stand-by contracts pursuant to this section prepared by an entity independent of the department. Such entity may be the office of the state comptroller. Such evaluation and audit shall be submitted by September first, nineteen hundred ninety and by September first, every two years thereafter.