REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

Agency Code: 015
Department: Governor's Office
Division (if applicable): Governor's Finance Office
Appointing authority: Susan Brown, Director
Agency contact (name, phone and e-mail): Heather Field, Executive Branch Budget Officer
Budget Division Analyst (name, phone and e-mail): Heather Field, Executive Branch Budget Officer 684-0225, hfield@finance.nv.gov
Proposed BOE date: September 2021
Proposed effective date: September 2021

1. Reason/purpose for requested change:

Senate Bill 445 approved during the 2021 Legislative Session revises the authority of the Clerk of the State Board of Examiners to approve certain contracts from a contract limit of $50,000 to $100,000.

2. Explain how the recommended change(s) will benefit agencies or create consistencies or efficiencies, etc. (provide examples if applicable):

This revision will implement compliance as approved in Senate Bill 445 of the 2021 Legislative Session.

Efficiencies will be in the form of a reduced workload for the preparation of the Board of Examiner meetings.

3. Will recommended change have a fiscal impact (if yes, explain):

No substantial fiscal impacts are projected.

4. Existing and recommended language in SAM (***blue bold italics*** is new language being proposed and ~~red strikethrough~~ is deleted language being proposed). **(please provide requested change as an attachment):**

Appointing Authority: _____

BOARD OF EXAMINERS APPROVAL DATE: _____
(for BOE use only)

0310 Approval of Cooperative Agreements

1. Cooperative agreements become effective only upon:
   a. Ratification by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Cooperative agreements ranging in cost from zero to $1,999 require approval of the agency head; cooperative agreements ranging in cost from $2,000 to $~~49,999~~ 99,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; and cooperative agreements totaling $~~50,000~~ 100,000 or more require the approval of the Board of Examiners; and
      b. Ratification by appropriate ordinance, resolution or otherwise by law on the part of the governing bodies of the participating public agencies.
2. Cooperative agreements shall be submitted to the Attorney General before becoming effective for determination of proper form and compatibility with the laws of this State. If the Attorney General does not disapprove an agreement within 30 days after its submission, the failure to disapprove constitutes approval.
3. Cooperative agreements must be recorded with the county recorder of each county in which a participating political subdivision of this State is located, and filed with the Secretary of State.
4. Cooperative agreements dealing in whole or in part with services or facilities over which an officer or agency of this State has control must be submitted to that State officer or agency for approval or disapproval as to all matters within his/her or its jurisdiction before the agreement's entry into force. This requirement is in addition to the requirement of submission and approval by the Attorney General.

A Contract Summary Form must accompany all cooperative agreements submitted for review and approval.

0310 Approval of Cooperative Agreements

1. Cooperative agreements become effective only upon:
   a. Ratification by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Cooperative agreements ranging in cost from zero to $1,999 require approval of the agency head; cooperative agreements ranging in cost from $2,000 to$ 99,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; and cooperative agreements totaling $100,000 or more require the approval of the Board of Examiners; and
      b. Ratification by appropriate ordinance, resolution or otherwise by law on the part of the governing bodies of the participating public agencies.
2. Cooperative agreements shall be submitted to the Attorney General before becoming effective for determination of proper form and compatibility with the laws of this State. If the Attorney General does not disapprove an agreement within 30 days after its submission, the failure to disapprove constitutes approval.
3. Cooperative agreements must be recorded with the county recorder of each county in which a participating political subdivision of this State is located and filed with the Secretary of State.
4. Cooperative agreements dealing in whole or in part with services or facilities over which an officer or agency of this State has control must be submitted to that State officer or agency for approval or disapproval as to all matters within his/her or its jurisdiction before the agreement's entry into force. This requirement is in addition to the requirement of submission and approval by the Attorney General.

A Contract Summary Form must accompany all cooperative agreements submitted for review and approval.

0316 Approval of Interlocal Contracts

If an agency of this State is a party to the interlocal contract, the interlocal contract must be approved by the Attorney General as to form and compliance with law.

Interlocal contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Interlocal contracts ranging in cost from zero to $1,999 require approval of the agency head; interlocal contracts ranging in cost from $2,000 to ~~$49,999~~ **$99,999** require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; interlocal contracts totaling ~~$50,000~~ **$100,000** or more require the approval of the Board of Examiners.

A Contract Summary Form must accompany all interlocal contracts submitted for review and approval.

0316 Approval of Interlocal Contracts

If an agency of this State is a party to the interlocal contract, the interlocal contract must be approved by the Attorney General as to form and compliance with law.

Interlocal contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Interlocal contracts ranging in cost from zero to $1,999 require approval of the agency head; interlocal contracts ranging in cost from $2,000 to $99,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; interlocal contracts totaling $100,000 or more require the approval of the Board of Examiners.

A Contract Summary Form must accompany all interlocal contracts submitted for review and approval.

0322 Independent Contract Review

1. Contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Contracts ***under $2,000*** require the approval of the agency head or designee; contracts ranging in cost from $2,000 to ***under*** ~~***$50,000***~~ ***$100,000*** require the approval of the Clerk of the Board of Examiners (BOE), or designee, on behalf of the BOE; and contracts totaling ~~***$50,000***~~ ***$100,000*** or more require the approval of the Board of Examiners. All revenue-generating contracts require approval limits consistent with the dollar thresholds as set forth herein. All contracts and amendments with current or former employees require BOE approval regardless of the contract amount. A current employee is a person who is an employee of an agency of the State; and a former employee is an employee of any agency of the State at any time within 24 months preceding the commencement date of the proposed contract. See SAM 0323 for requirements related to contracts with current or former employees.

No department, division or agency of the State shall enter into any contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State.

1. The Board of Examiners shall review each contract submitted for approval and consider whether sufficient authority exists to expend the money required by the contract and whether the services that are the subject of the contract could be provided by a State agency in a more ~~**cost effective**~~ ***cost-effective*** manner.
2. State agencies shall identify an internal, professional level position to function as a contract manager. This position would be responsible for facilitating the agency's RFPs, conducting complex agency solicitations or, in the event of decentralized agency purchasing procedures, the review and approval of agency solicitations and the resulting contracts for compliance with NRS Chapter 333, NAC Chapter 333, and SAM Chapter 0300. Agency contract managers must become certified through the State Purchasing Division's Contract Certification Class. Contract managers will be responsible for completing a comprehensive training course that will cover all aspects of the RFP process, informal solicitation process, law pertaining to the State Purchasing Act, contract negotiations, interlocal contracts and cooperative agreements and other topics relevant to State contracting and reducing the State's exposure to risk. Contract manager certification classes are available in NEATS.
3. All contracts submitted to the Board of Examiners which are less than ~~***$50,000***~~ ***$100,000***, and those contracts entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license MAY be approved on behalf of the Board by the Clerk of the Board of Examiners or his designee. The clerk's denial of a contract is appealable to the Board of Examiners. The appeal must be made in writing to the Clerk and include a full explanation and justification for the appeal. The appeal will be placed on subsequent Board of Examiner's Agenda subject to the same deadlines established for all other agenda items. Such contracts are not effective until signed by the Clerk.

4. All services provided to an agency by persons and/or firms falling under the definition of an independent contractor as enumerated in SAM 0320 must be supplied under a contract executed by the agency receiving the services. Examples of such services include, but are not limited to:
    a. Medical services (does not include employee physicals).
    b. Consultants.
    c. Training.
    d. Telephone answering services.
    e. Repair, replacement or installation of parts for automobiles and light trucks more than $5,000 and heavy equipment more than $15,000.
    f. Clipping services.
    g. ~~**Data Processing Services**~~ ***Information Technology***, including ***IT services, cloud solutions (e.g. Software-as-a-Service applications, Platform-as-a-Service, Function-as-a-Service, Infrastructure-as-a-Service),*** hardware***, software, and*** maintenance ~~(~~must be reviewed and approved by the Department of ~~**Information Technology**~~ ***Administration, Division of Enterprise Information Technology Services (EITS)*** before submittal to the Board of Examiners~~)~~. ***See SAM 1600.***
    h. Alarm System Monitoring (fire, burglar, etc.).
5. Whenever possible, agencies should anticipate and negotiate contracts for preventive services to eliminate the need for emergency services at some future date. Such contracts may include minor remodeling, repair or preventive maintenance work. The following rules must be considered in the preparation of such contracts.
    a. All such contracts are subject to the requirements of **SAM**.
    b. All such contracts must conform to the bidding requirements in **SAM 0338** and the minor remodeling, repair and maintenance requirements in **SAM 0338**.
    c. Funding must be available for payments against the contract.

0322 Independent Contract Review

1. Contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Contracts ***under $2,000*** require the approval of the agency head or designee; contracts ranging in cost from $2,000 to ***under $100,000*** require the approval of the Clerk of the Board of Examiners (BOE), or designee, on behalf of the BOE; and contracts totaling ***$100,000*** or more require the approval of the Board of Examiners. All revenue-generating contracts require approval limits consistent with the dollar thresholds as set forth herein. All contracts and amendments with current or former employees require BOE approval regardless of the contract amount. A current employee is a person who is an employee of an agency of the State; and a former employee is an employee of any agency of the State at any time within 24 months preceding the commencement date of the proposed contract. See SAM 0323 for requirements related to contracts with current or former employees.

No department, division or agency of the State shall enter into any contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State.

1. The Board of Examiners shall review each contract submitted for approval and consider whether sufficient authority exists to expend the money required by the contract and whether the services that are the subject of the contract could be provided by a State agency in a more cost-effective manner.
2. State agencies shall identify an internal, professional level position to function as a contract manager. This position would be responsible for facilitating the agency's RFPs, conducting complex agency solicitations or, in the event of decentralized agency purchasing procedures, the review and approval of agency solicitations and the resulting contracts for compliance with NRS Chapter 333, NAC Chapter 333, and SAM Chapter 0300. Agency contract managers must become certified through the State Purchasing Division's Contract Certification Class. Contract managers will be responsible for completing a comprehensive training course that will cover all aspects of the RFP process, informal solicitation process, law pertaining to the State Purchasing Act, contract negotiations, interlocal contracts and cooperative agreements and other topics relevant to State contracting and reducing the State's exposure to risk. Contract manager certification classes are available in NEATS.
3. All contracts submitted to the Board of Examiners which are less than $100,000, and those contracts entered into by the State Gaming Control Board for the purposes of investigating an applicant for or holder of a gaming license MAY be approved on behalf of the Board by the Clerk of the Board of Examiners or his designee. The clerk's denial of a contract is appealable to the Board of Examiners. The appeal must be made in writing to the Clerk and include a full explanation and justification for the appeal. The appeal will be placed on subsequent Board of Examiner's Agenda subject to the same deadlines established for all other agenda items. Such contracts are not effective until signed by the Clerk.

4. All services provided to an agency by persons and/or firms falling under the definition of an independent contractor as enumerated in SAM 0320 must be supplied under a contract executed by the agency receiving the services. Examples of such services include, but are not limited to:
    a. Medical services (does not include employee physicals).
    b. Consultants.
    c. Training.
    d. Telephone answering services.
    e. Repair, replacement or installation of parts for automobiles and light trucks more than $5,000 and heavy equipment more than $15,000.
    f. Clipping services.
    g. Information Technology, including IT services, cloud solutions (e.g. Software-as-a-Service applications, Platform-as-a-Service, Function-as-a-Service, Infrastructure-as-a-Service), hardware, software, and maintenance must be reviewed and approved by the Department of Administration, Division of Enterprise Information Technology Services (EITS) before submittal to the Board of Examiners. **See SAM 1600.**
    h. Alarm System Monitoring (fire, burglar, etc.).
5. Whenever possible, agencies should anticipate and negotiate contracts for preventive services to eliminate the need for emergency services at some future date. Such contracts may include minor remodeling, repair or preventive maintenance work. The following rules must be considered in the preparation of such contracts.
    a. All such contracts are subject to the requirements of **SAM**.
    b. All such contracts must conform to the bidding requirements in **SAM 0338** and the minor remodeling, repair and maintenance requirements in **SAM 0338**.
    c. Funding must be available for payments against the contract.

0328 Lease Contracts

State Offices - The Administrator of the State Public Works Division has the authority to lease and equip office space outside of State buildings whenever sufficient office space cannot be provided within State buildings. No such office space lease may extend beyond the term of one (1) year unless it is reviewed and approved by the Board of Examiners regardless of the total cost. (NRS 331.110). The exception is leased space used strictly for storage. In this instance, agencies may directly negotiate their own leases and they are subject to the same approval thresholds as operating leases. The Attorney General shall approve each lease entered into pursuant to this section as to form and compliance with law.

Land - The Division of State Lands acquires and holds all lands and interests in land owned or required by the State except:

1. Lands or interests used or acquired for highway purposes;
2. Lands or interests the title to which is vested in the Board of Regents of the Nevada System of Higher Education.
3. Office buildings leased by the Administrator of the State Public Works Division; or
4. Lands used or acquired for the Legislature or its staff.

Equipment - The Purchasing Administrator has sole authority to contract for equipment unless otherwise specifically provided by law (NRS 333.150). Agencies requiring equipment lease contracts should contact the Purchasing Division **(SAM 1500)**.

NRS 353.500 to NRS 353.630 outline provisions of law related to the purchase of real or personal property via installment purchase agreements or lease-purchase agreements. These agreements contemplate the State taking ownership of the property at the end of the agreement term. Lease- purchase agreements are also referred to as capital leases. NRS 353.580 exempts these types of agreements from Board of Examiners approval.

Conversely, an operating lease agreement is an agreement where ownership of the property does not transfer to the State at the end of the agreement term. Operating leases are not exempt from Board of Examiners approval.

Lease contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Operating leases ranging in cost from zero to $1,999 require approval of the agency head; operating leases ranging in cost from $2,000 to ~~**$49,999**~~ **$99,999** require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; operating leases totaling ~~**$50,000**~~ **$100,000** or more require the approval of the Board of Examiners.

If a lease contains an option to take ownership of the property at some later date but the decision to take ownership has not been made, the lease should be treated as an operating lease and forwarded to the Board of Examiners for approval in accordance with the thresholds contained in this section.

A Contract Summary Form must accompany all operating leases submitted for review and approval.

0328 Lease Contracts

State Offices - The Administrator of the State Public Works Division has the authority to lease and equip office space outside of State buildings whenever sufficient office space cannot be provided within State buildings. No such office space lease may extend beyond the term of one (1) year unless it is reviewed and approved by the Board of Examiners regardless of the total cost. (NRS 331.110). The exception is leased space used strictly for storage. In this instance, agencies may directly negotiate their own leases and they are subject to the same approval thresholds as operating leases. The Attorney General shall approve each lease entered into pursuant to this section as to form and compliance with law.

Land - The Division of State Lands acquires and holds all lands and interests in land owned or required by the State except:

1. Lands or interests used or acquired for highway purposes.
2. Lands or interests the title to which is vested in the Board of Regents of the Nevada System of Higher Education.
3. Office buildings leased by the Administrator of the State Public Works Division; or
4. Lands used or acquired for the Legislature or its staff.

Equipment - The Purchasing Administrator has sole authority to contract for equipment unless otherwise specifically provided by law (NRS 333.150). Agencies requiring equipment lease contracts should contact the Purchasing Division **(SAM 1500)**.

NRS 353.500 to NRS 353.630 outline provisions of law related to the purchase of real or personal property via installment purchase agreements or lease-purchase agreements. These agreements contemplate the State taking ownership of the property at the end of the agreement term. Lease- purchase agreements are also referred to as capital leases. NRS 353.580 exempts these types of agreements from Board of Examiners approval.

Conversely, an operating lease agreement is an agreement where ownership of the property does not transfer to the State at the end of the agreement term. Operating leases are not exempt from Board of Examiners approval.

Lease contracts must be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. Operating leases ranging in cost from zero to $1,999 require approval of the agency head; operating leases ranging in cost from $2,000 to $99,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; operating leases totaling $100,000 or more require the approval of the Board of Examiners.

If a lease contains an option to take ownership of the property at some later date but the decision to take ownership has not been made, the lease should be treated as an operating lease and forwarded to the Board of Examiners for approval in accordance with the thresholds contained in this section.

A Contract Summary Form must accompany all operating leases submitted for review and approval.

0336 Amendments to Contracts

All contracts requiring Board of Examiners' review may be amended if such an amendment is deemed to be in the best interest of the State. Amendments include, but are not limited to, additional money or time required to complete the scope of work of the of the contract, any change in the basis of payment for the contract or any substantive change to the scope of work which would affect the anticipated results of the contract.

Except for those contracts waived under SAM 0326, all amendments to contracts require Board review and approval. Such review may determine that it is in the best interest of the State to have a new contract with another contractor rather than amend the contract with the current contractor. The Clerk or his designee may, on behalf of the Board, approve amendments that which extend the time of the contract with no additional money and amendments that increase the contract by less than ~~$50,000~~ **$100,000**. Amendments increasing the total amount of the contract above ~~$50,000~~ **$100,000** will need to be submitted to the Board of Examiners. The Clerk may also approve contract amendments that change the scope of work if such a change is deemed to not adversely affect the State's interest.

All amendments must include language that clearly identifies the applicable change/revision; i.e., amount of monetary increase and new maximum amount, change of effective/termination date from 00/00/00 to 00/00/00, etc.

Amendments should be submitted in the following format: one copy of the amendment with a copy of the original contract, complete with any prior amendments to the contract and all attachments (e.g. the State's solicitation, contractor's response, etc.) attached as Exhibit A. All remaining copies of the amendment should be submitted with a copy of the original contract and any prior amendments attached as Exhibit A.

Three copies of the amendment must be submitted for Board of Examiners' approval. Each copy must include signatures of the Attorney General or representative, the responsible agency representative and the contractor. The signature requirement may be met in counterparts and with facsimile and/or electronically scanned copies of the signature page. Contract distribution is as follows: One copy for the Fiscal Analysis Division of the Legislative Counsel Bureau; one copy to be returned to the agency; and one copy for the independent contractor.

A Contract Summary Form must accompany each copy of the contract amendments submitted for review and approval.

0336 Amendments to Contracts

All contracts requiring Board of Examiners' review may be amended if such an amendment is deemed to be in the best interest of the State. Amendments include, but are not limited to, additional money or time required to complete the scope of work of the of the contract, any change in the basis of payment for the contract or any substantive change to the scope of work which would affect the anticipated results of the contract.

Except for those contracts waived under SAM 0326, all amendments to contracts require Board review and approval. Such review may determine that it is in the best interest of the State to have a new contract with another contractor rather than amend the contract with the current contractor. The Clerk or his designee may, on behalf of the Board, approve amendments that which extend the time of the contract with no additional money and amendments that increase the contract by less than $100,000. Amendments increasing the total amount of the contract above $100,000 will need to be submitted to the Board of Examiners. The Clerk may also approve contract amendments that change the scope of work if such a change is deemed to not adversely affect the State's interest.

All amendments must include language that clearly identifies the applicable change/revision, i.e., amount of monetary increase and new maximum amount, change of effective/termination date from 00/00/00 to 00/00/00, etc.

Amendments should be submitted in the following format: one copy of the amendment with a copy of the original contract, complete with any prior amendments to the contract and all attachments (e.g., the State's solicitation, contractor's response, etc.) attached as Exhibit A. All remaining copies of the amendment should be submitted with a copy of the original contract and any prior amendments attached as Exhibit A.

Three copies of the amendment must be submitted for Board of Examiners' approval. Each copy must include signatures of the Attorney General or representative, the responsible agency representative and the contractor. The signature requirement may be met in counterparts and with facsimile and/or electronically scanned copies of the signature page. Contract distribution is as follows: One copy for the Fiscal Analysis Division of the Legislative Counsel Bureau; one copy to be returned to the agency; and one copy for the independent contractor.

A Contract Summary Form must accompany each copy of the contract amendments submitted for review and approval.

REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

Agency Code: 015
Department: Governor's Office
Division (if applicable): Finance Office, Budget Division
Appointing authority: Susan Brown
Agency contact (name, phone and e-mail): Shauna Tilley, 775-684-0220, sstilley@finance.nv.gov
Budget Division Analyst (name, phone and e-mail): Shauna Tilley, 775-684-0220, sstilley@finance.nv.gov
Proposed BOE date: September 2021
Proposed effective date: October 2021

1. Reason/purpose for requested change:

Clarifying language

2. Explain how the recommended change(s) will benefit agencies or create consistencies or efficiencies, etc. (provide examples if applicable):

Proposed change will reduce confusion and corrections due to unnecessary or incorrect paperwork, not following required process, or not complying with statute

3. Will recommended change have a fiscal impact (if yes, explain):

No.

4. Existing and recommended language in SAM (***blue bold italics*** is new language being proposed and ~~red strikethrough~~ is deleted language being proposed). **(please provide requested change as an attachment):**

Appointing Authority: _____

BOARD OF EXAMINERS APPROVAL DATE: _____
(for BOE use only)

0323 Contracts with State Employees, Former State Employees and Secondary Employment

This section relates to current or former employees who contract with the State to provide services, and certain contracts with business entities who employ current or former state employees. ***Reference NRS 333.705.*** Additionally, this section addresses the responsibilities of current employees who hold outside employment.

The contracting process for a department, division or agency of the State that intends to contract with a current or former State employee is a two-step process. The proposed relationship between the State and a current or former employee must be documented using the forms prescribed in this section and submitted to BOE for consideration. Subject to approval of the relationship by the BOE, the agency may then execute the contract and in accordance with current contract policy submit it to the BOE.

Definitions of Employee ~~F~~*f*or purposes of this section:

1. Current employee is a person who is an employee of an agency of the State;
2. Former employee is a person who was an employee of an~~y~~ agency of the State at any time ~~less than~~ ***in the*** 2 years preceding the commencement date of the proposed contract***, and who will be receiving retirement benefits under the Public Employees' Retirement System at any time during the period of the contract***.

Note: Employees of the Nevada S~~s~~ystem of Higher Education (NSHE), Boards and Commissions are considered State employees.

BOE Pre-Approval Required

Before any department, division or agency of the State may execute a contract for services with a current employee, a former employee, or a person employed by the Nevada Department of Transportation (NDOT) for transportation projects that are entirely funded by federal money and the term of the contract exceeds 4 years, the Board of Examiners (BOE) must give pre-approval for entering into a contract with that person. (As noted in section 5 below, contracts executed by NSHE, Boards and Commissions and certain other contracts do not require BOE pre-approval) This pre-approval does not constitute approval of the contract terms, but only approval to contract with the particular current employee or former employee.

The authorization form and contract to initiate the employment of the person must be submitted for review in accordance with SAM 0324. The authorization form and contract may be considered at the same BOE meeting; however they will be agendized as separate items. In the event the employment of the person is not approved by the BOE, the contract cannot be considered by the BOE and will be withdrawn from the agenda.

A limited exception exists for contracts less than four months ***in circumstances that have been*** determined by the department, division or agency to constitute an emergency situation necessitating a contract with a current or former employee.

A department, division or agency of the State may seek blanket pre-approvals from BOE for former employees who work in seasonal, intermittent or other temporary capacities if the person will be performing or producing services for which the business or entity is employed. For example, five seasonal snow plow drivers terminate their employment at the end of winter. The drivers are later hired by construction companies to drive trucks as part of contracts the companies have with a State agency; in this instance, BOE pre-approval for entering into each contract is required unless the State agency has a blanket pre-approval for the former employees.

Standards for Pre-Approval of Contracts with Temporary Employment Services and Current or Former Employees

If an agency will be using a temporary worker to be supplied through a contract with a temporary employment service, and that person is a current or former state employee, the Board of Examiners shall not approve the use of the temporary worker unless the Board of Examiners determines that:

1. The person provides services not provided by any other employee of the agency or for which a critical labor shortage exists; or
2. A short-term need or unusual economic circumstance exists.

The Board of Examiners will apply these standards to all proposed contracts for services involving current employees or former employees.

Contracts Potentially Requiring BOE Pre-Approval

Contracts affecting current or former employees and requiring Board of Examiners pre-approval may take the form of:

1. A direct contract between a department, division or agency of the State and a current employee or former employee.
2. A contract with a business or any other entity that employs a current or former employee who will be performing or producing the contracted services.
3. A contract with a temporary employment service that provides a former state employee to the State to perform services as a temporary worker.

A person who is a current or former employee may not evade the intent of this section by performing contract work for the State through creation of a corporation or other business entity.

Exemptions

The requirements for BOE pre-approval of contracts with current employees or former employees do not apply to the following contracts:

1. A contract with a current employee or former employee for ~~4 months or less~~ ***less than four months***, where the executive head of the department/division/agency

determines an emergency exists that necessitates the contract. (Note: a copy of the contract and a description of the emergency must be submitted to the BOE. BOE shall review the contract and the description of the emergency and notify the department, division or agency utilizing this emergency exception whether the BOE would have approved the contract).

2. Contracts with Professional engineers employed by the Department of Transportation for a transportation project entirely funded by federal funds.
3. Contracts with Nevada System of Higher Education, or a board or commission of the State
4. Contracts with a person employed by an entity, which is a provider of services for Medicaid, and which provides services on a fee for service basis or through managed care.
5. Contracts for $1 million or more entered into:
    a. Pursuant to the State Plan for Medicaid established pursuant to NRS 422.271
    b. For financial services
    c. Pursuant to the Public Employees' Benefits Program

~~6. Contracting Agency Requirements~~

Complete Contract Authorization – The agency must complete an Authorization form (available on the Purchasing Division's website) requesting authorization to contract with a current or former employee and receive approval from the BOE before entering into a contract for services with a current employee or former employee, or with an entity that will be having a current employee or former employee perform the contracted services. ***In the case of pre-approval to contract with a current or former employee through a Master Service Agreement, the Authorization form is submitted through the Purchasing Division.***

Contract Approval Process - If the contract is going to be with a:

- Current employee
- Former employee
- Person who is employed by the Department of Transportation for a transportation project, which is entirely federally funded, and the term of the contract is over 4 years
- Business employing a current or former employee who will be performing or producing the contracted services

The following flowchart summarizes steps to be performed

Flow Chart

7. Additional Requirements ~~F~~*f*or Current Employees
    a. Time Keeping
        i. State time tracking - Current employees, during the pay period they perform contract or provider agreement work with the State, must include in their time sheet notes for each day, the specific times they used flex, sick, compensatory time, annual leave, etc. If contract work is performed during their standard shift, the employee must document the specific times in the notes and explain how this was performed during flex time, compensatory leave, annual leave, or non-state paid

time.

ii. Contract time tracking - The contracted employee must document all time (date and time of day) spent working on the contract and include it in the invoice.
Additionally, the employee must provide a supervisor approved copy of their State time sheet with their invoice.

b. Contractor Oversight

i. Current employee's supervisor's responsibilities - The employee's supervisor must compare the employee's NEATS time sheet to the times per the contract invoice to ensure contract work was not done during state time. The supervisor must sign the time sheet and the invoice certifying that contract work was performed during flex time, compensatory leave, annual leave, or non-state paid time.

ii. Contracting agency's responsibilities - The Contract Monitor must reconcile the current employee's approved NEATS time sheets to the times noted on the invoices to ensure contract work was performed during flex time, compensatory leave, annual leave, or non-state paid time.

c. Secondary Employment

i. Any employee with secondary employment must complete a Secondary Employment Disclosure form (available on the Purchasing Division's website) and submit it for approval by the agency head. When an employee obtains or has a change in their secondary employment, they must submit a Secondary Employment Disclosure form within 30 days of acceptance and must renew the Disclosure by July 1st of each year. The agency head must review the form for conflicts with State employment. Approved forms should be filed in the employee's personnel file.

ii. Secondary employment includes but not limited to contracts with the State, work with temporary employment agencies, and provider agreements.

0323 Contracts with State Employees, Former State Employees and Secondary Employment

This section relates to current or former employees who contract with the State to provide services, and certain contracts with business entities who employ current or former state employees. Reference NRS 333.705. Additionally, this section addresses the responsibilities of current employees who hold outside employment.

The contracting process for a department, division or agency of the State that intends to contract with a current or former State employee is a two-step process. The proposed relationship between the State and a current or former employee must be documented using the forms prescribed in this section and submitted to BOE for consideration. Subject to approval of the relationship by the BOE, the agency may then execute the contract and in accordance with current contract policy submit it to the BOE.

Definitions of Employee for **purposes of this section:**

1. Current employee is a person who is an employee of an agency of the State.
2. Former employee is a person who was an employee of an agency of the State at any time in the 2 years preceding the commencement date of the proposed contract, and who will be receiving retirement benefits under the Public Employees' Retirement System at any time during the period of the contract.

Note: Employees of the Nevada System of Higher Education (NSHE), Boards and Commissions are considered State employees.

BOE Pre-Approval Required

Before any department, division or agency of the State may execute a contract for services with a current employee, a former employee, or a person employed by the Nevada Department of Transportation (NDOT) for transportation projects that are entirely funded by federal money and the term of the contract exceeds 4 years, the Board of Examiners (BOE) must give pre-approval for entering into a contract with that person. (As noted in section 5 below, contracts executed by NSHE, Boards and Commissions and certain other contracts do not require BOE pre-approval) This pre-approval does not constitute approval of the contract terms, but only approval to contract with the particular current employee or former employee.

The authorization form and contract to initiate the employment of the person must be submitted for review in accordance with SAM 0324. The authorization form and contract may be considered at the same BOE meeting; however, they will be agenized as separate items. In the event the employment of the person is not approved by the BOE, the contract cannot be considered by the BOE and will be withdrawn from the agenda.

A limited exception exists for contracts less than four months in circumstances that have been determined by the department, division or agency to constitute an emergency situation necessitating a contract with a current or former employee.

A department, division or agency of the State may seek blanket pre-approvals from BOE for former employees who work in seasonal, intermittent or other temporary capacities if the person will be performing or producing services for which the business or entity is employed. For example, five seasonal snowplow drivers terminate their employment at the end of winter. The drivers are later hired by construction companies to drive trucks as part of contracts the companies have with a state agency; in this instance, BOE pre-approval for entering into each contract is required unless the State agency has a blanket pre-approval for the former employees.

Standards for Pre-Approval of Contracts with Temporary Employment Services and Current or Former Employees

If an agency will be using a temporary worker to be supplied through a contract with a temporary employment service, and that person is a current or former state employee, the Board of Examiners shall not approve the use of the temporary worker unless the Board of Examiners determines that:

1. The person provides services not provided by any other employee of the agency or for which a critical labor shortage exists; or
2. A short-term need or unusual economic circumstance exists.

The Board of Examiners will apply these standards to all proposed contracts for services involving current employees or former employees.

Contracts Potentially Requiring BOE Pre-Approval

Contracts affecting current or former employees and requiring Board of Examiners pre-approval may take the form of:

1. A direct contract between a department, division or agency of the State and a current employee or former employee.
2. A contract with a business or any other entity that employs a current or former employee who will be performing or producing the contracted services.
3. A contract with a temporary employment service that provides a former state employee to the State to perform services as a temporary worker.

A person who is a current or former employee may not evade the intent of this section by performing contract work for the State through creation of a corporation or other business entity.

Exemptions

The requirements for BOE pre-approval of contracts with current employees or former employees do not apply to the following contracts:

1. A contract with a current employee or former employee for less than four months, where the executive head of the department/division/agency determines

an emergency exists that necessitates the contract. (Note: a copy of the contract and a description of the emergency must be submitted to the BOE. BOE shall review the contract and the description of the emergency and notify the department, division or agency utilizing this emergency exception whether the BOE would have approved the contract).

2. Contracts with Professional engineers employed by the Department of Transportation for a transportation project entirely funded by federal funds.
3. Contracts with Nevada System of Higher Education, or a board or commission of the State
4. Contracts with a person employed by an entity, which is a provider of services for Medicaid, and which provides services on a fee for service basis or through managed care.
5. Contracts for $1 million or more entered into:
    a. Pursuant to the State Plan for Medicaid established pursuant to NRS 422.271
    b. For financial services
    c. Pursuant to the Public Employees' Benefits Program

Complete Contract Authorization – The agency must complete an Authorization form (available on the Purchasing Division's website) requesting authorization to contract with a current or former employee and receive approval from the BOE before entering into a contract for services with a current employee or former employee, or with an entity that will be having a current employee or former employee perform the contracted services. In the case of pre-approval to contract with a current or former employee through a Master Service Agreement, the Authorization form is submitted through the Purchasing Division.

Contract Approval Process - If the contract is going to be with a:

- Current employee
- Former employee
- Person who is employed by the Department of Transportation for a transportation project, which is entirely federally funded, and the term of the contract is over 4 years
- Business employing a current or former employee who will be performing or producing the contracted services

The following flowchart summarizes steps to be performed

Flow Chart

7. Additional Requirements for Current Employees
    a. Time Keeping
        i. State time tracking - Current employees, during the pay period they perform contract or provider agreement work with the State, must include in their time sheet notes for each day, the specific times they used flex, sick, compensatory time, annual leave, etc. If contract work is performed during their standard shift, the employee must document the specific times in the notes and explain how this was performed during flex time, compensatory leave, annual leave, or non-state paid time.

ii. Contract time tracking - The contracted employee must document all time (date and time of day) spent working on the contract and include it in the invoice.
Additionally, the employee must provide a supervisor approved copy of their State time sheet with their invoice.

b. Contractor Oversight
   i. Current employee's supervisor's responsibilities - The employee's supervisor must compare the employee's NEATS time sheet to the times per the contract invoice to ensure contract work was not done during state time. The supervisor must sign the time sheet and the invoice certifying that contract work was performed during flex time, compensatory leave, annual leave, or non-state paid time.
   ii. Contracting agency's responsibilities - The Contract Monitor must reconcile the current employee's approved NEATS time sheets to the times noted on the invoices to ensure contract work was performed during flex time, compensatory leave, annual leave, or non-state paid time.

c. Secondary Employment
   i. Any employee with secondary employment must complete a Secondary Employment Disclosure form (available on the Purchasing Division's website) and submit it for approval by the agency head. When an employee obtains or has a change in their secondary employment, they must submit a Secondary Employment Disclosure form within 30 days of acceptance and must renew the Disclosure by July 1st of each year. The agency head must review the form for conflicts with State employment. Approved forms should be filed in the employee's personnel file.
   ii. Secondary employment includes but not limited to contracts with the State, work with temporary employment agencies, and provider agreements.

REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

Agency Code: 015
Department: Governor's Office
Division (if applicable): Governor's Finance Office
Appointing authority: Susan Brown, Director
Agency contact (name, phone and e-mail): Heather Field, Executive Branch Budget Officer
Budget Division Analyst (name, phone and e-mail): Heather Field, Executive Branch Budget Officer 684-0225, hfield@finance.nv.gov
Proposed BOE date: September 2021
Proposed effective date: September 2021

1. Reason/purpose for requested change:

It is the Governor's Finance Office standard practice to have contracts related to computer software maintenance that consists of license, agreements, right to download updated remotely and/or off-site technical support approved by the Board of Examiners or the Clerk of the Board. State Administrative Manual (SAM) policy 0326 exempts these types of contracts from the approval of the Board.

2. Explain how the recommended change(s) will benefit agencies or create consistencies or efficiencies, etc. (provide examples if applicable):

SAM policy conflicts with current practice. The elimination of item 8 within the policy will deliver a statewide consistency.

3. Will recommended change have a fiscal impact (if yes, explain):

No substantial fiscal impacts are projected.

4. Existing and recommended language in SAM (***blue bold italics*** is new language being proposed and ~~red strikethrough~~ is deleted language being proposed). **(please provide requested change as an attachment):**

Appointing Authority: _____

BOARD OF EXAMINERS APPROVAL DATE: _____
(for BOE use only)

0326 Independent Contracts Not Requiring Board of Examiners' Review

The following types of contracts need not be filed with or approved by the Board of Examiners:

1. Contracts executed by the Department of Transportation for any construction or reconstruction of highways.
2. Contracts executed by the State Public Works Division or any other department or agency for any construction or major repairs, which includes without limitation anticipatory repairs such as remodeling or maintenance, of State buildings, or State improvements (i.e., dams, boat ramps, camp grounds), including its leaseholds, if the contracting process was controlled by the rules of open competitive bidding. **(SAM 0338 and 1908)**
3. Contracts executed by the Housing Division of the Department of Business & Industry.
4. Contracts executed with business entities for any work or maintenance or repair of office machines and equipment. (Does not include computer hardware, computer hardware maintenance and computer software, or items listed in **SAM section 0330**
5. Contracts entered into by the Nevada System of Higher Education.
6. Contracts for similar services provided by the same contractor within the same fiscal year which if combined would not exceed $1,999.
7. Repair, replacement and installation of parts on automobiles and light trucks, including aircraft, heating and air conditioning refer to **SAM 1552**
8. ~~Computer software maintenance that consists of the following: license agreements, right to download updates remotely and/or off site technical support.~~

0326 Independent Contracts Not Requiring Board of Examiners' Review

The following types of contracts need not be filed with or approved by the Board of Examiners:

1. Contracts executed by the Department of Transportation for any construction or reconstruction of highways.
2. Contracts executed by the State Public Works Division or any other department or agency for any construction or major repairs, which includes without limitation anticipatory repairs such as remodeling or maintenance, of State buildings, or State improvements (i.e., dams, boat ramps, campgrounds), including its leaseholds, if the contracting process was controlled by the rules of open competitive bidding. **(SAM 0338 and 1908)**
3. Contracts executed by the Housing Division of the Department of Business & Industry.
4. Contracts executed with business entities for any work or maintenance or repair of office machines and equipment. (Does not include computer hardware, computer hardware maintenance and computer software, or items listed in **SAM section 0330**
5. Contracts entered into by the Nevada System of Higher Education.
6. Contracts for similar services provided by the same contractor within the same fiscal year which if combined would not exceed $1,999.
7. Repair, replacement and installation of parts on automobiles and light trucks, including aircraft, heating and air conditioning refer to **SAM 1552**