



DEPARTMENT OF ADMINISTRATION

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Date: July 17, 2013

To: Jeff Mohlenkamp, Director
Department of Administration

From: Mike Torvinen, Deputy Director
Department of Administration

Subject: BOARD OF EXAMINERS **ACTION** ITEM

The following describes an action item submitted for placement on the agenda of the next Board of Examiners' meeting. An analysis of the action item and recommendation is also provided.

**DEPARTMENT OF ADMINISTRATION – CLERK OF THE BOARD OF EXAMINERS,
REQUESTED CHANGES TO THE STATE ADMINISTRATIVE MANUAL**

Agenda Item Write-up:

The Department of Administration requests modifications to the following sections of the State Administrative Manual (SAM) to increase the Clerks authority to approve contracts and agreements for less than \$50,000:

1. SAM Section 0310 Approval of Cooperative Agreements
2. SAM Section 0316 Approval of Interlocal Contracts
3. SAM Section 0322 Independent Contract Review

Additional Information:

This request is contingent upon the Board's delegation of authority for the Clerk to approve contracts less than \$50,000 pursuant to AB 41 passed during the 2013 Legislative Session.

Statutory Authority:

NRS 333.700 (2013 Session AB 41)

<p>REVIEWED: _____</p> <p>ACTION ITEM: _____</p>
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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 ~~\$9,999~~ **\$49,999** require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; and cooperative agreements totaling ~~\$10,000~~ **\$50,000** 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 ~~\$9,999~~ **\$49,999** require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; interlocal contracts totaling ~~\$10,000~~ **\$50,000** 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 \$10,000~~ **\$50,000** require the approval of the Clerk of the Board of Examiners (BOE), or designee, on behalf of the BOE; and contracts totaling ~~\$10,000~~ **\$50,000** 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 monitor. 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 monitors will need to contact State Training for a schedule of classes and registration.
3. All contracts submitted to the Board of Examiners which are less than ~~\$10,000, those contracts necessary to preserve life and property in amounts less than \$25,000~~ **\$50,000** 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, ~~which is appealable~~ *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 the next 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. ~~(NRS 284.173)~~

subsequent

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, including hardware maintenance (must be reviewed and approved by the Department of Information Technology before submittal to the Board of Examiners).
- 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.