

REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

1. Reason/purpose for requested change:

The purpose of this request is to clarify language within State Administrative Policy 0323 Contracts with State Employees, Former State Employees and Secondary Employment.

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

The 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~~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 any 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 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 agendaized 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~~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.