

REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

Agency Code: 086

Department: Department of Administration

Division: Administrative Services Division

Appointing authority: Evan Dale

Agency contact: Evan Dale, 775-684-0281, edale@admin.nv.gov

Budget Division Analyst: Stacey Johnson, 775-684-0239, s_johnson@admin.nv.gov

Proposed BOE date: 04/08/2014

1. Reason/purpose for requested change:

This change will reduce administrative burden and expedite processing for State employees and contractors. In addition, this change will reduce postage and other carrier expenses.

2. Existing and recommended language in SAM (*blue bold italics* is new language being proposed and ~~red strikethrough~~ is deleted language being proposed).

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

This change will reduce administrative burden for State employees and contractors as well as reduce carrier expenses.

Currently, SAM requires three copies of a contract for BOE. All three copies must bear original "wet" signatures from all parties. As a result, the process must allow for transit time and carrier expenses to route the documents to all parties. In addition, it's not unusual for a party to omit one or more copies thus causing additional delay.

On occasion, the signature routing process causes an agency to miss the submittal deadline for the target BOE meeting. Such events effectively delay the underlying project by at least one month. This change will substantially ease that burden.

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

Postage and carrier expenses will be lower.

5. Proposed effective date:

Upon approval of the Board of Examiners.

BOARD OF EXAMINERS APPROVAL DATE: _____

(for BOE use only)

Agency Code: 080

Department: Administration

Division (if applicable): Budget

Appointing authority: Julia Teska

Agency contact (name, phone and e-mail): Mike Torvinen, 684-0226, mjtorvinen@admin.nv.gov

Budget Division Analyst (name, phone and e-mail): Statewide SAM policy - Affects all Budget Analysts

Proposed BOE date: May 2014

Proposed effective date: Upon approval

1. Reason/purpose for requested change:

This is a recommended change to SAM 0328 Lease Contracts. Currently SAM is not consistent with statute in regards to operating leases and whether they require approval by the BOE. There is a specific exemption from required BOE approval for capital leases and installment contracts.

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

The recommended changes will clarify the proper treatment of operating leases and provides a specific reference to the controlling NRS.

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**):

See Attached

BOARD OF EXAMINERS APPROVAL DATE: _____

(for BOE use only)

0324 Independent Contract Review Procedure

The following procedures should be adhered to when submitting a contract for review:

1. Contracts should be submitted to the Clerk of the Board of Examiners by the deadline established by the Clerk and disseminated to State agencies via agency memorandums.
2. Each contract must include a clause that specifically states that the State is not obligated under the agreement before approval by the Board of Examiners.
3. The contract should consist of the Attorney General's approved contract form for independent contractors, the State's solicitation and the successful vendor's proposal. Any negotiated items or clarifications should be reduced to writing and incorporated into the contract document as a separate attachment. It is important, when listing the order of the attachments within a contract, to give consideration to the order of precedence to prevent potential conflict in the terms.
4. Three copies of the contract must be submitted; each copy must *include ~~have the original~~ 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. Access to all submitted proposals shall be made available by the soliciting agency and will be retained for the life of the contract or six (6) years, or for a period of time as determined by the soliciting agency's records retention schedule, whichever is longer.*

0328 Lease Contracts

State Offices - The Administrator of the State Public Works Division has the authority to lease and equip office ~~rooms~~ *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. ~~Lease contracts ranging in cost from zero to \$1,999 require approval of the agency head; lease contracts ranging in cost from \$2,000 to \$9,999 require the approval of the Clerk of the Board of Examiners, or designee, on behalf of the Board of Examiners; lease contracts totaling \$10,000 or more require the approval of the Board of Examiners.~~ *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 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 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 32 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 \$10,000. Amendments increasing the total amount of the contract above \$50,000 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* ~~have the original~~ 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.