

REQUEST FOR CHANGES TO THE STATE ADMINISTRATIVE MANUAL (SAM)

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.

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.

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** 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, 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.

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.

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.