



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
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His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 541-A: 1, XV and RSA 4:15, the Department of Administrative Services requests approval of amendments to paragraph MOP 150 VII of the DAS Manual of Procedures ("Special Provisions Regarding the Department of Administrative Services") so as to specify that certain multi-agency service contracts and commodity contracts shall be brought to the Governor and Executive Council for approval. Effective upon Governor and Executive Council approval. Proposed new language is in bold and underlined below, language recommended to be removed has a strike-through:

MOP 150 VII.

A. Department of Administrative Services Multi-agency Service Contracts.

As a general matter, the Department of Administrative has statutory responsibility for procuring commodities for all state agencies and is charged with entering into contracts for services that are intended for use by more than one state agency. See RSA 21-I: 11, I (a) (1); RSA 21- I, 11, II (f); RSA 21-I:12, I (a). At times, the Department of Administrative Services may delegate to agencies the authority to purchase commodities valued below a particular dollar figure. See RSA 21-I: 17-a. Unlike other agencies, the Department of Administrative Services has been granted the authority to establish a set of administrative rules relating to the procurement of multiagency service contracts and commodity contracts. See RSA 21-I: 11, I (a) (2); RSA 21- I:14, XII. These rules (Adm Chapter 600) establish a process in which objective criteria are used to select a winning bidder, thereby helping to ensure that the State's vendors are selected in a fair and nondiscriminatory manner that does not involve favoritism. ~~In light of the Department of~~

~~Administrative Services' unique role in the State's procurement process, the Governor and Council have long recognized, and hereby specifically reaffirm, that multiagency service contracts established through the Department of Administrative Services are not subject to the service contract approval thresholds established in Section V above. The Department shall submit multi-agency services contracts involving an expenditure of two hundred and fifty thousand dollars (\$250,000) or more to the Governor and Executive Council for review and approval.~~

B. **Department of Administrative Services Reporting** (there are no proposed changes to this section)

C. **Commodity Contracts (new section)**

When engaging in the procurement of commodities, the Department of Administrative Services (including any agency approved to purchase commodities directly from vendors in accordance with RSA 21-I:17-a II) shall submit such contracts to the Governor and Executive Council for approval if those contracts are at or above two hundred and fifty thousand dollars (\$250,000). This provision shall not apply if, in the opinion of the Department of Administrative Services:

- a) **An emergency situation exists which requires the immediate procurement of commodities; or**
- b) **The immediate procurement of commodities would result in a financial benefit to the State which would not be obtained if a delay in procurement were to occur.**

If the appointing authority of an approved agency under RSA 21-I:17-a II, is in the opinion that items a) and b) above apply, it shall seek a waiver from the Commissioner of the Department of Administrative Services.

Should the Department of Administrative Services make use of the exceptions contained in MOP 150, VII, C above, it shall notify the Governor and Executive Council as soon as practicable.

EXPLANATION

In the summer of 2022, the Executive Council met to consider various changes to the Manual of Procedures, including, but not limited to, discussions on setting thresholds for multi-agency service contracts and commodity contracts, to be presented to the Governor and Executive Council for approval. Whereas most agencies procure individual service contracts for use by their agency alone, the Department of Administrative Services procures a number of service contracts for use by multiple agencies. Currently, multi-agency contracts are not subject to the individual agency service contract threshold of \$10,000, as set in MOP 150, and as such do not require submission to the Governor and Executive Council for approval. This item would require the Department to submit multi-agency service contracts at or above \$250,000 to the Governor and Executive Council for approval.

In addition, the Department of Administrative Services has statutory responsibility for procuring commodities for all state agencies and under Administrative Rules (Adm Chapter 600), has established a process in which objective criteria are used to select a winning bidder, thereby helping to ensure that the State's vendors are selected in a fair and nondiscriminatory manner. In light of the Department of Administrative Services' unique role in the State's procurement process, commodity contracts have traditionally not been required to be brought to the Governor and Executive Council for approval. This item would require commodity contracts at or above \$250,000 be submitted to the Governor and Executive Council for approval. The language submitted here also includes an exception in the case of procurements which would result in a pricing benefit to the state or which are necessary to address emergency situations. If these exceptions are utilized, this proposal requires the Department to notify the Governor and Executive Council as soon as practicable.

Respectfully submitted,



For

Charles M. Arlinghaus
Commissioner