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**THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION**



*William Cass, P.E.
Commissioner*

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*David Rodrigue, P.E.
Assistant Commissioner
Andre Briere, Colonel, USAF (RET)
Deputy Commissioner*

Division of Operations
August 11, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Transportation, Division of Operations, to enter into MOA's with various State of New Hampshire agencies to provide personnel to assist with winter maintenance activities on assignment to the Department of Transportation to be effective upon Governor and Executive Council approval through June 30, 2024.

EXPLANATION

RSA 21-1:42, VI, as amended by HB2 (Laws of 2023), authorizes DAS-DOP to develop programs for the recruitment and retention of qualified applicants in State service. Under the statute, DOP is required to obtain the approval of the Fiscal Committee prior to developing or implementing such programs. DAS-DOP has requested approval to establish/renew the Winter Maintenance Employee Retention Program, pursuant to RSA 21-1:42, VI, under a separate item before the Fiscal Committee.

The Winter Maintenance Employee Retention Program is aimed at reducing the turnover of state employees who provide critical winter maintenance activities and to incentivize employees from other State agencies who hold Commercial Drivers Licenses (CDL's) to assist with winter maintenance. Over the last two years, the turnover rate, or loss of state employees, as well as the number of vacant positions across DOT winter maintenance, has increased dramatically. As of August 2022 (when the first iteration of this program was approved), NHDOT's department-wide vacancy rate for all positions was 24%, with winter maintenance staffing at a 25.66% vacancy rate with 176 positions vacant. As of August 1, 2023, winter vacancies are worse than one year ago at 28% with 192 positions vacant. This stands in contrast to 2020, when the overall department vacancy rate was 10%. Many individual sections and work units far exceed the current 28% rate, with one of our maintenance districts serving southern New Hampshire exceeding 40% vacancy. This level of position vacancies is considered a critical detriment to the ability to maintain levels of service during this upcoming winter season. Increased competition in the labor market is adding to the challenge to recruit and retain good candidates.

In order for the Department to staff winter maintenance sufficiently to meet safety and the needs of the travelling public, the Department is offering to qualified State employees in other State agencies, the opportunity to assist during the defined winter maintenance retention period. The MOA provides expectations of both agencies and the employees on assignment to facilitate the winter maintenance mission.

To assure the oversight of the Governor and Council of these Agreements, the Department will submit to the Governor and Council a report at the end of the winter maintenance season that will detail the agreements which were entered into during the previous winter season.

The sample MOA provided as an attachment has been reviewed and approved by the Attorney General's Office. The use of these agreements will allow the Department to leverage the needed personnel necessary to keep the State's transportation system operational and help meet the expectations of New Hampshire's travelers.

It is respectfully requested that this item be approved.

Sincerely,



William Cass, P.E.
Commissioner

Attachment (Sample Memorandum of Agreement)

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (MOA) is made by and between the State of New Hampshire Department of Transportation, hereinafter referred to as DOT, and the State of New Hampshire Department of "Sample" hereinafter referred to as DOSAMPLE

WHEREAS, on August 1, 2023, DOT winter maintenance staffing was at a 28% vacancy rate with 192 positions vacant and DOT has significant need for snow fighters possessing a commercial driver's license (CDL) and or other skills to help the Department meet the Snow and Ice Control Policy;

WHEREAS, DOSAMPLE has employees possessing a CDL and or other skills who may be capable and willing to be on call to report to DOT facilities, work for DOT supervisors, operating DOT trucks and equipment and work on a DOT winter maintenance assignment.

WHEREAS, DOT and DOSAMPLE agree it is in the State's best interest for DOSAMPLE to encourage their CDL holders to perform winter maintenance duties for the DOT.

Now, THEREFORE, in consideration of the above premises and in further consideration of the agreements herein set forth by and between the parties hereto, it is mutually agreed as follows by and between the parties hereto:

1. DOSAMPLE shall agree to encourage their employees possessing required skills and/or licenses to apply for a winter maintenance assignment with DOT. If an employee is selected by DOT, the employee must be available for call outs 24 hours a day and 7 days a week including holidays and during regularly scheduled work hours at DOSAMPLE. In recognition of their obligations to respond to winter maintenance call outs, DOSAMPLE will pay these employees any winter maintenance retention incentives developed by DAS-DOP. DOSAMPLE will keep track of the cost to compensate these employees including straight time, call back, overtime, holiday pay, mileage, and/or retention incentive and/or other costs accrued while working for DOT. DOSAMPLE will bill DOT for all appropriate costs for these employees.
2. DOT is responsible for:
 - o Providing DOSAMPLE with the list of winter maintenance assignments, locations and eligibility criteria;
 - o Reviewing applications from non-DOT candidates who wish to be considered for winter maintenance assignments not filled by DOT employees;
 - o Notifying DOSAMPLE if their employees have been approved to perform winter maintenance assignments;
 - o Providing DOSAMPLE with project numbers for employees to use when recording their time, mileage, boot reimbursement, and retention incentive;
 - o Supervising employees while performing winter maintenance assignments and returning employee to DOSAMPLE if they are not following Division of Personnel (DOP), DOT, DOSAMPLE rules and policies or if they are not meeting minimum performance requirements as determined by DOT and Ensuring

employees are adequately trained to perform winter maintenance duties and have reviewed and acknowledged all relevant policies.

3. Appointing Authorities or their Designee(s) at both DOT and DOSAMPLE are responsible for:
 - Communicating to their employees the ability to support the DOT's winter maintenance activities and eligibility to be considered for assignment to these activities;
 - Working with DOP and DOT to determine job classifications and positions eligible for assignment to winter maintenance activities;
 - Collecting and submitting employee applications to the DOT Commissioner or Designee;
 - Communicating the determination of selection for assignment to the eligible employees in writing;
 - Informing DOSAMPLE agency payroll staff when employees have been selected by the DOT and when the Winter Maintenance Retention Incentive eligibility has been met and shall be paid;
 - Informing DOSAMPLE on the Friday immediately following the pay period of the dates and
 - hours employees have worked for DOT including regular time, overtime, call back and mileage employees have earned;
 - Working with the Department of Administrative Services (DAS) Division of Accounting Services on coding Winter Maintenance Retention Incentives using the appropriate account in the State's payroll system;
 - Reviewing, in NH First, the calculation of any overtime paid during the pay period in which any Winter Maintenance Retention Incentive has been issued (pursuant to the FLSA's requirements for non-discretionary payments);
 - Reporting and requesting reimbursement from the DOT for the funds expended under this MOA;
 - Maintaining, in NH First, a copy of any approval of the award of any Winter Maintenance Retention Incentive for any eligible employee and Winter maintenance individuals will remain employees of DOSAMPLE and will be covered by the DOSAMPLE Drug and Alcohol Program, as applicable, as well as workers compensation, health and other benefits.
4. DAS is responsible for:
 - Transferring all expenses incurred by DOSAMPLE, including those associated with payment of the Winter Maintenance Retention Incentive and time worked by employees in support of the DOT's winter maintenance activities to the appropriate DOT accounts.

This AGREEMENT, and all obligations of parties hereunder, shall become effective upon approval by Governor and Council and shall terminate June 30, 2024 or within 30 days notification from either DOT or DOSAMPLE.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
By:

DEPARTMENT OF TRANSPORTATION
William Cass, P.E., Commissioner

STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAMPLE
By:

DEPARTMENT OF SAMPLE
, Commissioner