



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Robert R. Scott, Commissioner

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January 10, 2025

Her Excellency, Governor Kelly A. Ayotte
and the Honorable Council
State House
Concord NH 03301

REQUESTED ACTION

The NH Department of Environmental Services (NHDES) requests **RETROACTIVE** authorization to waive the provisions of Manual of Procedures (MOP) 150 section V, Governor and Executive Council Approval Thresholds, paragraph A:3, Thresholds Established, and continue to purchase maintenance and repair services for NHDES fleet vehicles in accordance with Administrative Rule (Adm) 608.01, Repairs to Motor Vehicle, effective as of July 1, 2024, upon Governor and Council approval.

EXPLANATION

NHDES seeks a **RETROACTIVE** waiver from MOP 150, section V, A:3 to allow for timely repairs and maintenance on NHDES fleet vehicles which includes cars, trucks, heavy equipment, boats and trailers to continue the longstanding practice of using local automotive repair facilities within our various working regions to minimize downtime. The Department of Administrative Services (DAS) recently informed NHDES that the longstanding interpretation of Adm 608.01, Repairs to Motor Vehicle conflicts with the MOP. Adm 608.01 authorizes the Division to repair a motor vehicle for an amount equal to or less than the \$10,000 threshold established by RSA 21-I:II, I(a)(3) without further approval. DAS notes that the cumulative vendor spend required by MOP 150, section V, A:3 must be applied to all automotive repair transactions, that exceed \$10,000 at a single vendor. Because the repairs have already occurred, this waiver request is retroactive.

NHDES has already exceeded the \$10,000 threshold on two of our vendors and several invoices are being held, causing payment delays for work already completed which will negatively impact small and local businesses and likely lead to refusal of services causing delays in repairs and increased downtime for NHDES fleet vehicles. In the first quarter of state fiscal year 2025, NHDES has utilized over 30 vendors located across the state for vehicle repairs and maintenance. There are currently two vendors over the threshold but based on prior fiscal years, we expect up to 20 vendors to exceed the cumulative \$10,000 threshold.

Waiving the requirements of MOP 150, section V, A:3, will allow NHDES to continue to utilize over 30 NH based vendors for vehicle repair and maintenance and ensure that NHDES staff are able to respond to calls for service safely, effectively and timely.

We respectfully request your approval.


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(b) An agency may request changes to the items specified in (a) above by submitting a written request to the division.

(c) The division shall deny changes under (a) above if granting the changes would:

- (1) Alter the purchase by a value of 50% or more of the original value of the purchase order or contract; or
- (2) Would violate the competitive bidding requirements of RSA 21-I.

Source. #8310, eff 5-11-05; moved by #9501 (formerly Adm 607.09); ss by #10364, eff 7-1-13; ss by #13708, eff 7-29-23 (see Revision Note at chapter heading for Adm 600)

PART Adm 608 AGENCY REQUIREMENTS FOR PLANT AND PROPERTY MAINTENANCE

Adm 608.01 Repairs to Motor Vehicles.

(a) Repairs to motor vehicles for amounts equal to or less than the amount established by RSA 21-I:11, I(a)(3) may be accomplished by the agency without processing through the division.

(b) A repair to a motor vehicle which exceeds the amount established by RSA 21-I:11, I(a)(3) shall be handled in accordance with the following procedure:

- (1) The agency shall provide to the division a requisition in accordance with Adm 607 together with a statement of the work to be performed, including, at a minimum:
 - a. A complete description of the work to be performed;
 - b. A complete description of the parts to be supplied; and
 - c. An estimate of the cost of repairs;
- (2) If the agency requests the use of a specific vendor, the agency shall file, in addition to the items specified in (b)(1) above, a sole source request under Adm 607.03;
- (3) If a sole source request under (b)(2) above is approved, the division shall issue a purchase order that shall include instructions to the vendor; and
- (4) If no sole source request is submitted, the division shall process the request in accordance with Adm 604 through Adm 606.

Source. #4985, eff 11-19-90; ss by #6355-A, eff 11-20-96; ss by #8193, INTERIM, eff 11-12-04, EXPIRES: 5-11-05; ss by #8310, eff 5-11-05; amd by #9501, eff 7-6-09; ss by #10364, eff 7-1-13; amd by #10827, eff 5-16-15; ss by #13708, eff 7-29-23 (see Revision Note at chapter heading for Adm 600)

Adm 608.02 Construction. Prior to requesting a purchase through the division of public works design and construction:

(a) For new construction, alterations to existing structures, or repairs to existing structures for work contracted to be in excess of the amount established in RSA 21-I:82, II, or when the alteration or repair involves the structural integrity of a structure, the division of public works design and construction shall perform all site preparation work and develop the specifications and requirements of a bid on behalf of all state agencies.

(b) For new construction, alterations to existing structures, or repairs to existing structures in an amount less than or equal to the amount established in RSA 21-I:82, II, site preparation work and development of specifications and requirements of a bid shall, at an agency's discretion, be performed by:

- (1) An agency on its own behalf;
- (2) An outside contractor; or

DAS MANUAL OF PROCEDURES

V. Governor and Executive Council Approval Thresholds

A. Thresholds Established

The Governor and Council have traditionally specified that certain types of expenditures require their direct approval in addition to the approval afforded by the warrant. Agencies must bring expenditures of various types which are above a specific monetary threshold to the Governor and Executive Council for their direct review and approval. Except as is otherwise provided in this chapter, approval of the Governor and Executive Council is required in order for any executive branch agency to:

1. Incur costs associated with organized meetings in the amount of \$2,500 or more;
2. Incur membership fees or dues in the amount of \$2,500 or more under DAS MOP Chapter 1200;
3. Enter into service contracts in the amount of \$10,000 or more covering any type of service.
4. Enter into an "interagency" memorandum of understanding (MOU), as to be further described in MOP 161, if the MOU involves an expenditure in the amount of \$10,000 or more;
5. Enter into an "external" memorandum of understanding, as to be further described in MOP 161, if the MOU involves either a State expenditure (in any amount), the receipt of funds, or the establishment of an enforceable obligation;
6. Award grant funds, as to be further described in MOP 163, in the amount of \$10,000 or more;
7. Accept grant funds, as to be further described in MOP 163, in any amount. In this regard, it may be necessary for an agency to request the authority to "accept and expend" the funds received. It is anticipated that "Accept and Expend" and "Budget and Expend" requests will be further described in Chapter MOP 199 of this Manual.