



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
 OFFICE OF THE COMMISSIONER  
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His Excellency, Governor Christopher T. Sununu  
 And the Honorable Executive Council  
 State House  
 Concord, NH 03301

## REQUESTED ACTION

Pursuant to RSA 21-I:14, I and RSA 541-A:1, XV, and upon request of a portion of the Council, the Department of Administrative Services (DAS) presents this **contingent** amendment for the Council's consideration. This contingent amendment would insert into revised Chapter MOP 150, Section V a new paragraph ("D") specifically providing that certain types of items must be presented to the Governor and Executive Council for approval, regardless of dollar amount. The contingent amendment identifies the types of such items that would have to be brought before the Governor and Executive Council for approval, including, at the suggestion of a portion of the Council, so-called "northern border grants." The list could subsequently be expanded to include additional items. It presents no other changes to the "clarifying revision" of MOP 150. If adopted, the amendments noted in Attachment A hereto would be inserted by the Department of Administrative Services in the official version of the "clarifying revision" of DAS MOP 150, effective July 1, 2018.

## EXPLANATION

This is a proposed **contingent** amendment to DAS MOP 150, relating to items which must be brought before the Governor and Executive Council for direct approval, regardless of dollar amount. **The Council should not act upon this amendment unless it first approves the "clarifying revision" to DAS MOP 150 submitted contemporaneous herewith.**

The delay in effective date is intended to allow any items which are currently in progress to proceed according to existing processes. If either the "clarifying revision" of MOP 150 submitted contemporaneous herewith, or this contingent amendment, is not adopted, the amendments appearing in Attachment A would *not* be included in the existing version of MOP 150.

RSA 21-I:14, I provides that the Commissioner of Administrative Services is to adopt a comprehensive uniform system of state financial management described in RSA 21-I:13, XV and XVI in the form of a manual, to be updated and revised as the Commissioner deems necessary, to explain procedures applicable to all executive branch state agencies, officers and employees. Topics addressed in the Manual of Procedures include, but are not limited to, those items listed in RSA 21-I:14, I (b)(1) through (12), as well as topic areas relating to agency annual or biennial reports as described in RSA 21-I:14, IX. Pursuant to RSA 21-I: 14, I(a) and RSA 541-A: 1, XV, the Manual's provisions are not administrative

“rules” that must be adopted by way of the formal rulemaking procedures of RSA 541-A, but executive branch agencies must nonetheless abide by the requirements of the MOP.

RSA 21-I: 14, I (b) (4) specifically provides that the Manual may “[t]o the extent deemed necessary by the commissioner, set forth standards, practices, procedures, policies, protocols, guidelines, specifications, instructions, directives, requirements, or descriptions of requirements related to the financial management of the state, including but not limited to . . . Governor and council actions.”

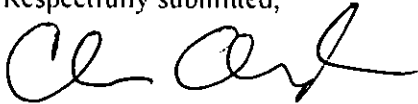
In February of this year the Council was provided with a draft of changes to MOP 150 that were intended to clarify the current processes by which the Governor and Executive Council approve certain service contracts, grants, leases, and memoranda of understanding. Those clarifications were the product of meetings held between the Department of Administrative Services and the Department of Justice over the course of the past year and were solely intended to clarify, rather than to change, existing processes. Substantively the same clarifications were presented to the Council for action in the “clarifying revision” of MOP 150 submitted on this date. The amendments shown in bold in Attachment A hereto are intended as revisions to *that* document, *if* that document is adopted. They are presented to the Council for consideration at the request of the Governor and a portion of the Council. The amendments presented here would change the “clarifying revision” of MOP 150 by including a new paragraph (MOP 150 V., D.) which identifies specific types of items that must come before the Governor and Executive Council for approval regardless of the dollar value at issue. Those items are:

1. “External” memoranda of understanding (that is, memoranda of understanding between the State and a non-State entity). Inclusion of this item on the list of items that require direct Governor and Council approval regardless of dollar amount simply reflects the procedures set forth in the underlying “clarifying revisions” of MOP 150. That document specifies in MOP 150 V, A, 6 that any “external” memorandum of understanding involving a State expenditure (in any amount), the receipt of funds, or the establishment of an enforceable obligation must receive direct review and approval. It is anticipated that external memoranda of understanding will be further discussed in a future chapter of the Manual of Procedures (DAS MOP 161), but inclusion of this item on the list of actions that always require direct approval allows the Department of Justice and the Department of Administrative Services an opportunity to assure that the item should not in fact be treated as a standard contract.
2. The acceptance of grant funds. Again, inclusion of this item on the list of items that require direct Governor and Council approval regardless of dollar amount simply reflects the procedures set forth in the underlying “clarifying revisions” to MOP 150. That document (MOP 150 V A 8) requires that the acceptance of grant funds in any amount receive direct review. Thus, inclusion of this item generally reflects current practice.
3. “The award of grants by the State to any entity under programs intended to foster law enforcement on the northern border, including but not limited to ‘Northern Border Grants’ administered by the Federal Motor Carrier Safety Administration.” This item is a new provision suggested for discussion by a portion of the Council.

4. Unless otherwise provided by statute, leases in which the State will act as a property owner granting rights to a third party.

The approval of this request would result in the amendments found in Attachment A being inserted by the Department of Administrative Services into the "clarifying revision" of Chapter DAS MOP 150, effective July 1, 2018. If that "clarifying revision" is not adopted, these amendments would not go into effect.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. Arlinghaus', written in a cursive style.

Charles M. Arlinghaus  
Commissioner

Enclosure

## ATTACHMENT A

*[Revision note: Revision notes (which are instructional and not part of the amended text itself) are in italics. Text which exists in the “clarifying revision” of MOP 150 is in regular type. Language that would be stricken by this amendment is in ~~bold strike-through~~. New language that will be inserted if this amendment is approved is in bold underlining. If these amendments (and the underlying “clarifying revision” of MOP 150) are approved by the Council, DAS would insert these changes in the “clarifying revision” of MOP 150, effective July 1, 2018].*

***Amend Chapter DAS MOP 150, Section V. by inserting a new paragraph D. after paragraph C. to read as follows, effective July 1, 2018:***

### **D. Specific Items Requiring Direct G & C Review and Approval, Regardless of Expenditure Amount**

**Except as otherwise provided in this chapter, all agencies must bring the following types of expenditures to the Governor and Executive Council for their direct review and approval regardless of the dollar amount at issue. In other words, there is no minimum threshold for approval of the following types of actions. Unless otherwise provided, agencies must seek Governor and Council approval for the following types of actions:**

- 1. Entry into an “external” memorandum of understanding, as addressed in paragraph V, A above.**
- 2. The acceptance of grant funds, as discussed in paragraph V, A, above;**
- 3. Unless otherwise provided by statute, entry into a lease, as discussed in paragraph V, A, above, in which the State will be a landlord to a third party.**

**4. The award of grants by the State to any entity under programs intended to foster law enforcement on the northern border, including but not limited to "Northern Border Grants" administered by the Federal Motor Carrier Safety Administration.**