



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
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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 these **contingent** amendments for the Council's consideration. These contingent amendments would create one single G & C approval threshold for service contracts, rather than the current *two* thresholds (\$10,000 for "personal/personnel" service contracts and \$25,000 for other service contracts). If these contingent amendments were to be adopted, the amount of the *new single threshold* would be set at \$10,000. In addition, these amendments would specify that certain "external" memoranda of understanding may be placed on the consent calendar if the item in question has a dollar value of less than \$10,000. In effect, these amendments lower the current upper approval threshold for certain service contracts to the approval threshold now used only for "personal/personnel" service contracts, creating one single threshold. Except as noted here, all other provisions of the "clarifying revision" to DAS MOP 150 would remain as proposed therein. If adopted, the amendments noted in Attachment A hereto would be inserted by the Department of Administrative Services into the official version of the "clarifying revision" of DAS MOP 150, effective July 1, 2018.

## EXPLANATION

These are proposed **contingent amendments** to DAS MOP 150 relating to the so-called "G & C approval thresholds." **The Council should not act upon these amendments 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 and the current approval thresholds would remain unaltered.

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 DAS 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 (that is, as changes to the "clarifying revision" to DAS MOP 150) *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 make 8 specific changes to the "clarifying revision" of DAS MP 150, effective upon Governor and Council approval:

1. The somewhat confusing distinction between personal/personnel service contracts and other types of service contracts (found in DAS MOP 150, Section V., paragraph A., subparagraph 3) would be eliminated.
2. A single \$10,000 service contract approval threshold would be established in DAS MOP 150, Section V., paragraph A., subparagraph 3.
3. The "upper" threshold found in DAS MOP 150, Section V., paragraph A., subparagraph 4 would be eliminated and subsequent paragraphs would be renumbered.
4. The \$25,000 amount specified in DAS MOP 150, Section V., paragraph A., subparagraph 5 (proposed subparagraph 4) would be reduced to \$10,000. This would lower the amount of the G & C approval threshold for memoranda of understanding between two or more State agencies ("interagency" memoranda of understanding) to the \$10,000 amount.
5. The \$25,000 amount specified in DAS MOP 150, Section V., paragraph A., subparagraph 7 (proposed subparagraph 6) would be reduced to \$10,000. This would lower the amount of the G & C approval threshold for approval of the award of grant funds.
6. The \$25,000 amount specified in DAS MOP 150, Section V., paragraph A., subparagraph 9 (proposed subparagraph 8) would be reduced to \$10,000. This would lower the amount of the G & C approval threshold for approval of leases, license agreements or other use of premises agreements in which the State will be a tenant of a third party.
7. The \$25,000 amount specified in DAS MOP 150, Section V., paragraph A., subparagraph 11 (proposed subparagraph 10) would be reduced to \$10,000. This would lower the amount of

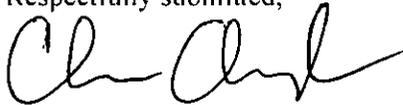
the G & C approval threshold for approval of license agreements or other use of premises agreements in which the State is a property owner granting rights to a third party.

8. The \$25,000 amount specified in DAS MOP 150, Section IX, paragraph B., subparagraph 5, clause b) would be reduced to \$10,000. Amendment of this clause would mean that "external" memoranda of understanding (a memoranda of understanding between the State and a non-State entity) - which items must generally be brought to the Governor and Executive Council for approval regardless of dollar amount - could be placed on the consent calendar if they had a dollar value of less than \$10,000.

In short, approval of this amendment would change all references to the existence of two thresholds (\$25,000 and \$10,000) and create a single \$10,000 approval threshold, essentially requiring that more contracts, grants, memoranda of understanding and use of premises agreements to be brought to the Council by agencies for direct review and approval. Other thresholds, such as those for organized meetings and membership fees, would remain unchanged.

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,



Charles M. Arlinghaus  
Commissioner

Enclosure

## DAS MANUAL OF PROCEDURES

### 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. ("Governor and Executive Council Approval Thresholds"), paragraph A., to read as follows, effective July 1, 2018:***

#### **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 "personnel services" or consultant any type of services. For the purposes of this subparagraph, a contract for "personnel services" is one in which the services of a specific individual or specific individuals is/are a major component of the contract;
- ~~4. Enter into contracts in the amount of \$25,000 or more covering any type of service other than a "personnel service" described in subparagraph 3 above;~~
4. 5. Enter into an "interagency" memorandum of understanding (MOU), as to

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be further described in MOP 161, if the MOU involves an expenditure in the amount of \$10,000 ~~\$25,000~~ or more;

5. 6. 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. 7. Award grant funds, as to be further described in MOP 163, in the amount of \$10,000 ~~\$25,000~~ or more;
7. 8. 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.
8. 9. Enter into a lease, license agreement or other use of premises agreement, as to be further described in MOP 165, in which the State will be a tenant of a third party, if the lease, license or other use of premises agreement involves an expenditure in the amount of \$10,000 ~~\$25,000~~ or more; or
9. 10. Unless otherwise provided by statute, enter into a lease, as to be described in MOP 165, in which the State will be a landlord to a third party.
10. 11. Enter into a license agreement or other use of premises agreement, as to be described in MOP 165, where the State is the owner of the subject property, if the license or other use of premises agreement involves the receipt of funds in the amount of ~~\$25,000~~ \$10,000 or more.

**Amend Chapter DAS MOP 150, Section IX. ("Consent Calendar for Certain Items"), paragraph B., subparagraph 5, clause b) to read as follows, effective upon Governor and Executive Council approval**

- b) "External" memoranda of understanding involving a state expenditure, the receipt of funds or an enforceable obligation if the dollar value of that memorandum of understanding is less than \$10,000 ~~\$25,000~~.