



**NEVADA
DOT**

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Transportation Board

August 13, 2018

Informational Item #10

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Director

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Executive Audit

- February 2018: Audit requested by Governor's Finance Office
- March – May 2018: Audit on NDOT's Administrative Contracts performed by Division of Internal Audits
- June 14, 2018: Internal Audits presented their audit report to the Executive Branch Audit Committee



Audit Recommendations

1. Submit administrative contracts and amendments of \$50,000 and above to NDOT Board for approval
2. Submit sole source contracts to the Purchasing Division Administrator for approval
3. Renew the NDOT Director's contract approval limit when there is a new Governor
4. Ensure all relevant contract information is provided to the Transportation Board for informational items
5. Comply with state and federal guidelines
6. Report all informational items to the NDOT Board



Implementation Timeline

#	Recommendation	Timeframe
1	Submit administrative contracts and amendments of \$50,000 and above to the NDOT Board for approval.	August 2018
2	Submit sole source contracts to Purchasing Division Administrator for approval.	By December 2018
3	Renew the Director's contract approval limit when there is a new Governor.	January 2019 (approximately)
4	Ensure all relevant contract information is provided to NDOT Board for informational items.	By December 2018
5	Comply with state and federal guidelines.	By December 2018
6	Report informational items to the NDOT Board.	By December 2018



Recommendation #2

Submit all sole source contracts to the Purchasing Division Administrator for approval

***Audit Conclusion:** Submitting sole source contracts to the Purchasing Division Administrator for approval will ensure compliance with regulations and state-wide consistency when approving sole source contracts.*

NDOT's Response: NDOT accepts this recommendation and will develop a process with the Purchasing Administrator to ensure timely and efficient approval of **any sole source contracts not excepted from NRS 333.700, emergency contracts** issued pursuant to NRS 408.323, and those **not addressed by AGO Opinion No. 96-31.**



Recommendation #3

Renew the Director's contract approval limit when there is a new Governor

***Audit Conclusion:** Renewing the Director's contract approval limit when there is a new Governor will ensure consistency with the Governor's vision of state administration.*

NDOT's Response: NDOT accepts this recommendation and will meet with the new Governor to review the contract approval limits. These limits **must be voted on by the Transportation Board.**



Recommendation #4

Ensure all relevant contract information is provided to the Transportation Board for informational items

***Audit Conclusion:** NDOT could modify its agreement summary sheet to contain the same information as Budget Division's contract summary form or use the Budget Division's contract summary form. (see appendix A and B in audit report)*

NDOT's Response: NDOT accepts this recommendation and will work on revising its agreement summary form to provide more detailed information. NDOT will also write a memorandum to be included in the informational items section of the Board agenda notifying Transportation Board members that agreement summaries will be made available to them upon request.



Recommendation #5

Comply with State and Federal Guidelines

Audit Conclusion: *There were four contract files missing documentation, including: certificates of liability insurance and/or worker's compensation insurance affidavits; contract evaluation criteria; and a federal form related to disclosure of lobbying activities.*

NDOT's Response: NDOT accepts this finding. The Agreement Services Section has a process in place to ensure all files are complete and contain the necessary documentation described above in the future. New processes in DocuSign includes a STOP to ensure documentation has been received before forwarded to the Director for signature.



Recommendation #6

Report Informational Items to the NDOT Board

Audit Conclusion: *One amendment and two contracts were not reported to the NDOT Board.*

NDOT's Response: NDOT accepts this finding and has already been working with the Agreement Services Section to ensure all informational items are reported to the Transportation Board. NDOT processes many contracts and agreements and from time to time finds an amendment or agreement that was not reported to the Transportation Board. The informational report now pulls data directly from the Advantage system where every agreement is entered.



Recommendation #1

Submit administrative contracts and amendments of \$50,000 and above to the Transportation Board for approval

***Audit Conclusion:** Submitting administrative contracts and amendments of \$50,000 and above to the NDOT Board for approval will ensure consistency with approval levels required by the State Administrative Manual (SAM) 0322 for other state agencies.*

NDOT's Response: NDOT requires Transportation Board approval to accept this recommendation. NDOT will present this recommendation to the Transportation Board for consideration.



NRS 408 Delegation Authority

NRS 408.131(6) Duties. The Board shall: Except as otherwise provided in NRS 408.389, delegate to the Director such authority as it deems necessary under the provisions of this chapter.

In accordance with NRS 408.131, the Transportation Board delegated agreement approval to the Director up to \$300,000 in July 2011.

Since July 2011, agreements under \$300,000 signed by the Director are submitted to the Transportation Board as informational items.



Consistency with BOE?

Audit Statement: Both the NDOT Board and the State Board of Examiners (BOE) provide for a high level of approval; however, BOE approves contracts of \$50,000 and more in accordance with SAM 0322.

Audit Conclusion: Submitting administrative agreements and amendments of \$50,000 and above to the Transportation Board for approval will ensure consistency with approval levels required by the **State Administrative Manual (SAM) 0322** for other state agencies.

SAM 0322: "Contracts totaling \$50,000 or more require the approval of the Board of Examiners."



State Administrative Manual (SAM)

Jurisdiction: SAM is an official publication of the Governor's Finance Office and is issued under authority of the Governor and the Board of Examiners (NRS 353.040). The Governor instructs all State executive agencies to comply with the provisions of this manual **to promote economy and efficiency** in the government of the State of Nevada.

The State Administrative Manual (SAM) is a compilation of policy statements concerning the internal operations of State government. Policies are based on authorizing statute or other approved regulations, although policies may be established in the absence of specific statutes where particular guidance and instructions are necessary for agencies to conduct business.



Exceptions to SAM

Constitutional agencies with broad powers (e.g., the Nevada System of Higher Education) are expected to follow these regulations **when not in conflict** with the Constitution, **Nevada Revised Statutes** or Board of Regents' regulations.

Unlike many other state agencies, NDOT has specific statutes and a governing Board to determine policy on approval limits.

The Transportation Board has independent statutory authority under NRS 408.131 to delegate contract authority to the Director. the Transportation Board is not required to align its delegated contract authority limits to the Board of Examiners.



Statutory Process

In accordance with NRS 408.131(6), the Transportation Board was presented with two options for approving future contracts and agreements at its July 2011 meeting.

Option No. 1 Board approves all agreements (including amendments).

Option No. 2 Board approves all agreements over \$300,000.

July 2011 minutes: Record reflected Board did not want to approve every agreement. \$300,000 threshold was established by reviewing other state's practices and working with the Governor's Office on an acceptable threshold. Option No. 2 passed unanimously.



No Findings for Recommendation #1

The audit contained no findings to justify how a \$50,000 delegation would improve the efficiency and effectiveness of the department or save money.

June 14, 2018 Executive Audit Committee: When asked by the executive audit committee whether there were any finding to justify a change, the auditors stated there were no findings.

NDOT stated in the audit response its concerns with the potential for loss of efficiencies by lowering the delegated authority.



Loss of Efficiencies

- Agreement execution delays from waiting for Transportation Board approval
- New project delays
- Longer design schedule
- Current project delays waiting for amendment approval
- Cost of provider's services and materials can increase with associated project delays, thus requiring more amendments
- Additional preparation time for all Agreement Services staff & Project Managers
- Requires additional staff workload for processing, negotiations, signatures, and approvals
- Additional processes need to be put in place
- Potentially longer Transportation Board meetings
- Less flexibility to accommodate the needs of the Department
- Potentially add an estimated 25 pages agreement for the Board packet (including summary sheets, agreement, negotiation summary, etc.)



Options for Board

Of five comparable Western states (Arizona, Idaho, New Mexico, Oregon, and Utah), Idaho had the lowest delegated authority to its Director of \$500,000. None currently have a threshold as low as \$300,000 and four placed no approval limit on the Director.

Option No. 1 Present lowering threshold for service providers from \$300k to \$50k at September Board meeting with potential impacts to department and projects with comparisons to other state's practices.

Option No. 2 Review all approval limits with incoming Governor along with Executive Audit recommendation #3 and defer as potential action item after January 2019.

Questions?



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Agreement Types

1. **Service Provider** - an agreement through which an individual or firm provides professional services to the NDOT
2. **Cooperative** - an agreement between two or more public agencies for the “joint exercise of powers, privileges, and authority”
3. **Interlocal** - an agreement by public agencies to “obtain a service” from another public agency
4. **Acquisition** – the act of acquiring (example most used by NDOT: property)
5. **Lease** – a legal agreement that lets someone use a car, house, etc., for a period of time in return for payment
6. **Appraisal** – the act of judging the value, condition, or importance of something (example most used by NDOT: property)
7. **Event** – a planned occasion or activity (example most used by NDOT: specific touring car groups)
8. **Facility** – tangible property that is built, remodeled, relocated, or upgraded for a specific purpose (can be related to a Lease)
9. **ROW Access** – to gain access to another entities property for a short period of time for a variety of purposes (example most used by NDOT: reconstruction of a driveway due to repaving activities)



Approval Matrix

Contracts, Agreements and Miscellaneous Items

Line #	Type	Board of Examiners Approval	Transportation Board Approval	Transportation Board Informational	Tort Claims Administrator	Not Reported to Board	Source	Notes
1	100% Federal/Local Expenditure Agreements					x	July 2011 Board Meeting	Includes most Stewardship agreements
2	Agreements Over \$300,000		x				July 2011 Board Meeting	Non-construction matters, except railways, urban public transport & aviation
3	Agreements Under \$300,000			x			July 2011 Board Meeting	
4	Amendment Bringing Agreement Total Over \$300,000		x				NDOT Director's Office *	For example: Existing Agreement \$250,000, Amendment \$185,000
5	Amendment Keeping Agreement Total Under \$300,000			x			NDOT Director's Office *	For example: Existing Agreement \$250,000, Amendment \$45,000
6	Amendments Over \$300,000		x				NDOT Director's Office *	Regardless of existing agreement amount
7	Amendment up to \$300,000 - Existing Agreement Total Over \$300,000			x			NDOT Director's Office *	For example: Existing Agreement \$350,000, Amendment \$45,000
8	Claim Settlements	x		x			July 2011 Board Meeting	Includes personnel, construction, and right-of-way claims
9	CMAR Construction Contracts (any amount)		x				NDOT Director's Office	The Construction Manager at Risk method of procurement was not used by NDOT prior to July 2011, and therefore was not addressed in the Board Reporting policy adopted that month. This reporting process was defined and refined by the Director's Office as agreements and construction contracts for CMAR projects arose.
10	CMAR Independent Cost Estimator Service Agreements Over \$300,000		x				NDOT Director's Office	
11	CMAR Independent Cost Estimator Service Agreements Up To \$300,000			x			NDOT Director's Office	
12	CMAR Pre-Construction Services Agreements (any amount)		x				NDOT Director's Office	
13	Construction Contracts: Engineer's Estimate >\$250,000, Low Bid Price Over \$5 million		x				July 2011 Board Meeting	
14	Construction Contracts: Engineer's Estimate >\$250,000, Low Bid Price Up To \$5 million			x			July 2011 Board Meeting	
15	Design-Build Contracts		x				July 2011 Board Meeting	
16	Disaster or Emergency Agreements			x			July 2011 Board Meeting	Authorized by NRS 408.323(2)
17	Grants			x			NDOT Director's Office *	



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Contracts, Agreements and Miscellaneous Items

Line #	Type	Board of Examiners Approval	Transportation Board Approval	Transportation Board Informational	Tort Claims Administrator	Not Reported to Board	Source	Notes
18	Interlocal Agreements					x	July 2011 Board Meeting	
19	Master Agreements with Task Orders - Total Authority up to \$300,000			x			NDOT Director's Office *	Individual Task Orders are not presented to the Board (see Line 26)
20	Master Agreements with Task Orders - Total Authority over \$300,000		x				NDOT Director's Office *	Individual Task Orders are not presented to the Board (see Line 26)
21	Matters Handled by State Purchasing	x					July 2011 Board Meeting	Including Master Service agreements
22	Non-monetary agreements			x			NDOT Director's Office *	
23	Quotes (Construction Contracts - Engineer's Estimate <\$250,000)			x			NDOT Director's Office *	Quotes result in Agreements, and are reported as such (see Lines 2 & 3)
24	Railways, Urban Public Transportation & Aviation	x					July 2011 Board Meeting	
25	Right of Way Acquisition Agreements (any amount)			x			July 2011 Board Meeting	Follows FHWA processes defined in 23 CFR - time is of the essence
26	Routine Operational Matters					x	July 2011 Board Meeting	Including truck/special event/facility use permits and litter-free highways agreements
27	Task Orders for Master Agreements					x	NDOT Director's Office *	These items are reported under the Master Agreement (see Lines 18 & 19)
28	Time extension only amendments			x			NDOT Director's Office *	
29	Tort Claim Fund				x		July 2011 Board Meeting	
30	Utility Relocation Agreements (any amount)			x			NDOT Director's Office *	Follows FHWA processes defined in 23 CFR - time is of the essence

* Interpretation of July 2011 Board Meeting Approved Reporting Process