



Town of New Boston, NH Encumbrance Policy

INTRODUCTION

The purpose of this Policy is to explain the legal requirements for the encumbrance of funds at the end of the fiscal year, and ensure all departments are in compliance with statutory guidelines.

STATUTORY REQUIREMENTS

RSA 32:7 permits encumbering funds that would otherwise lapse at the end of the fiscal year in certain limited circumstances:

1. The amount has prior to the end of the fiscal year become encumbered by a legally enforceable obligation created by contract or otherwise to any person for the expenditure of that amount (RSA 32:7, I); or
2. The amount is appropriated under a special warrant article and the Select Board votes at a properly noticed meeting held prior to the end of the fiscal year for which the appropriation is made to treat the appropriation as encumbered for a maximum of one (1) additional fiscal year (RSA 32:7, V).

“Legally Enforceable Obligation” should be interpreted to mean an obligation which creates a legal duty by which a person is bound to do or not to do a certain thing.

COMMON ISSUES

Unless the appropriation meets the statutory requirements above, funds cannot be encumbered into the next fiscal year simply by a vote of the Select Board.

Examples of common issues are:

1. A purchase order is established for the balance of an expenditure line item with the intent that since the budget was not spent, it is to be carried over and used in the next fiscal period.
2. A purchase order is established for a specific purpose and amount (e.g. road line striping), but the vendor/contractor has yet to be determined.
3. A purchase order is established for the next fiscal year's lease payment because money was leftover in the budget in the current year.

EXAMPLES OF VALID ENCUMBRANCES:

1. Special Warrant Articles: The amount was appropriated under a special warrant article, and the Select Board votes at a duly noticed meeting prior to the end of the fiscal year to encumber the appropriation for a maximum of one additional fiscal year.
2. Legally Enforceable Obligations:
 - A. Contract signed prior to the end of the fiscal year.
 - B. Any other legally enforceable obligation of the Town that arises before the end of the fiscal year, such as but not limited to obligations to employees and judgments.
 - C. Whether purchase orders can be considered “legally enforceable obligations” depends on the specific language used. In order to meet the definition, it must create some legally enforceable obligation on behalf of the parties.

PROCEDURES

1. Purchase orders/commitments must be reviewed regularly and updated by department heads or their assignees. An "Open Purchase Order/Commitment" report should be run and reviewed at least on a quarterly basis, and again thirty (30) days prior to fiscal year-end. Any old purchase orders/commitments should be reviewed and their status determined, to ensure compliance with the statute.

Select Board Approved , 2023
Reviewed: