**Board of Trustees of the Nebraska State Colleges**

Meeting Date**: September 10, 2026**

Agenda Item: **4.1**

**ITEMS FOR DISCUSSION AND ACTION:**

Committee: **Fiscal, Facilities, & Audit Committee**

---

Action Item: **Revisions to Policy 6400 - Purchasing of Materials and Equipment, Policy 6401 – Contracts and Agreements, Policy 7018 – Information Technology (IT) Purchasing and Services, and Policy 8064 – Capital Construction, Facility Maintenance and Repair Contracts, and Fixed Equipment Acquisitions**

---

Revisions to Policy 6400 – Purchasing of Materials and Equipment, Policy 6401 – Contracts and Agreements, Policy 7018 – Information Technology Purchasing and Services, and Policy 8064 – Capital Construction, Facility Maintenance and Repair Contracts, and Fixed Equipment Acquisitions are presented for the Board's review and approval.

Several revisions clarify the Vice President of Academic Affairs signature authority being limited to contracts that are academic in nature. We also recommend removing the requirement for a formal bid process for annual auditing contracts.

The most significant change is the addition of Section 4.4 in Policies 6400, 6401, and 8064, and Section 6.4 in Policy 7018. To ensure the System can respond effectively to unique, time-sensitive, or unforeseen circumstances, the Chancellor is requesting the authority to approve contracts and purchases that fall outside the requirements of the current policy when, in the Chancellor's judgment, the exception is in the best interest of the College or System Office. This authority provides necessary flexibility when strict adherence to established procedures could delay critical decisions, limit operational effectiveness, or result in a less favorable outcome. Such exceptions would be exercised judiciously, with appropriate documentation of the rationale and circumstances supporting the decision, while maintaining accountability, transparency, and the System's overall fiduciary responsibilities.

The System Office recommends approval to revisions to Policy 6400 - Purchasing of Materials and Equipment, Policy 6401 – Contracts and Agreements, Policy 7018 – Information Technology (IT) Purchasing and Services, and Policy 8064 – Capital Construction, Facility Maintenance and Repair Contracts, and Fixed Equipment Acquisitions.

*Updated*: September 1, 2026

**ATTACHMENTS:**

- Revisions to Policy 6400
- Revisions to Policy 6401
- Revisions to Policy 7018
- Revisions to Policy 8064

# Board of Trustees of the Nebraska State Colleges

## Business and Finance

| | |
|---|---|
| **POLICY NAME:** | Purchasing of Materials and Equipment |
| **POLICY NUMBER:** | 6400 |

## A. PURPOSE

To secure the best possible prices and procure quality materials and equipment that meet specifications and other requirements. This policy applies to bidding and purchasing of all goods, materials, supplies, vehicles and equipment, with the exception of fixed equipment, hereinafter referred to as "materials".

Fixed equipment should be purchased according to Policy 8064.

The purchase of any IT equipment or software must adhere to the purchasing thresholds in Policy 7018 and have the approval of the College or the NSCS Chief Information Officer (CIO) or designee. See Policy 7018 for additional guidance.

## B. DEFINITIONS

1. **Open Solicitation:** Consists of pursuing purchase prices which are secured by telephone calls, prices available online, or letters to potential vendors or from the vendors' published material.
2. **Informal Bids:** An Informal Bid is a written quote from a vendor which may include a facsimile quote or an email. Note that "proposals" and "quotes" have the same meaning as "bids" throughout this policy.
3. **Formal Bids:** Bids are secured from vendors by means of an advertised Request for Proposal (RFP). An RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP. Electronic bids are only allowed when prescribed by the RFP.
4. **Emergency:** Any situation where it is necessary to enter into a contract to (a) avoid the loss of life, health, safety or property; (b) respond to time limits established by an external authority; (c) ensure the continuation of an essential College service, function, utility, facility or (d) avoid, correct or repair a situation outside the control of the College including detrimental negligence or acts of an employee, natural or manmade disasters.

5. **Fixed Equipment:** Equipment that is affixed to the facility and is not movable.

## C. POLICY

### 1. Purchasing Thresholds

All purchases shall conform to the following dollar thresholds and bidding process.

1.1. Less than $25,000 – No bids are required

Open Solicitation applies when the materials purchased are valued at less than twenty-five thousand dollars ($25,000). If it is determined by the College/System Office that solicitation of bids for materials costing less than twenty-five thousand dollars ($25,000) would result in a better-quality product or lower cost, Informal Bids may be secured in writing by facsimile quotes or emails.

1.2 $25,000 but less than $150,000 – Informal Bid process

An Informal Bid process is required for all purchases that are twenty-five thousand dollars ($25,000) but less than one hundred fifty thousand dollars ($150,000). A minimum of three (3) written quotes is necessary. If it is not possible to get three (3) written quotes, the process and reasons should be documented.

1.3 $150,000 or more – Formal Bid process

On purchases of one hundred fifty thousand dollars ($150,000) or more Formal Bids are required.

### 2. General Purchasing Guidance

2.1. Purchase Orders and Notification of Award

Purchase orders or purchase requisitions or signed contracts may serve as notification of award and documentation for the purchase of supplies and materials.

2.2. Most Advantageous Price

- Purchasing processes and procedures shall be designed to ensure that all materials following appropriate standards and specifications can be purchased at the most advantageous price.
- Where feasible and appropriate, each College shall attempt to determine its annual supply needs so that purchasing may be coordinated to realize the potential economies of standardization of materials and large-scale purchases.
- State purchasing assistance or contracts may be utilized where found to be advantageous.

2.3. Threshold Adherence

All purchases shall be bid as a single whole item. In no case shall purchases be divided or fractioned to produce several purchases which are each of an estimated value below a particular threshold bidding requirement.

**3. General Bid Requirements**

3.1. Minimum Number of Bidders

If materials are to be purchased by the Formal Bid process, the College or System Office shall prepare standards and specifications for the Request for Proposal (RFP) in such a manner it will be possible for three (3) or more manufacturers, vendors or suppliers to submit bids. If bids are not submitted from three (3) bidders, bids may be accepted from a fewer number of bidders than three (3) upon documentation of the bidding process including the companies contacted.

3.2. Bid Timelines

The RFP shall state the manner, day and time upon which bids shall be returned, received and opened.

3.3. Bid Preference

When a public bid is to be awarded to the lowest bidder, a Nebraska residential bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. This provision shall not apply to any contract for any project upon which federal funds would be withheld because of such provisions.

3.4. Nondisclosure

No person in charge of any bids prior to the bid opening time shall open them prior to that time or otherwise disclose to any bidder the contents, amount, or other details of any rival bid.

3.5. Lowest Bidder

Purchases are generally made from the lowest bidder, taking into consideration the best interest of the College, the quality of the materials proposed to be supplied, conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest bidder, in addition to price, the College may develop criteria specific to a purchase or may give the following elements consideration when appropriate:

- The ability, capacity and skill of the bidder to meet the specifications;
- The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- Whether the bidder can meet the delivery expectations;
- The performance on past awarded bids;

- The previous and existing compliance by the bidder with laws relating to the contract;
- The life cycle costs of the personal property in relation to the purchase price and specific use of the item;
- The performance of the materials, taking into consideration any commonly accepted tests and standards of product usability and user requirements; and
- Such other information as may be secured having a bearing on the decision to award the bid.

3.6. Bid Rejection

Any or all bids may be rejected including the bid of any bidder who has failed to perform a previous contract with the Colleges. In any case, where Formal Bids are required and all bids rejected, and the proposed purchase is not abandoned, new bids shall be called for as in the first instance.

**4. Exceptions, Emergencies, and Sole Sourcing**

4.1. Exceptions to Bidding Requirements

The following are exceptions to bidding requirements. Documentation justifying the exception should be kept on file by the College.

- Used items including vehicles and equipment, used materials, or used supplies.
- Library books, magazines, and acquisitions.
- Purchasing from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multistate compact contract. Competitively bid government contracts by non-government entities such as consortiums, organizations, and partnerships are also included.
- When pricing has been established by the federal General Services Administration.
- Utilities include electricity, water and sewer, heating fuels, gasoline, diesel fuel, or wood chips.
- Lodging and airfare.

4.2. Emergency

Emergency purchases shall be documented by the College and submitted by the President, Vice President for Administration and Finance (VPAF), or Vice President for Academic Affairs (VPAA) to the Chancellor for approval. Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency.

4.3. Sole Source

A sole source purchase is when there is only a single feasible or sole source for the supplies or equipment. Documentation to purchase based on sole source without Informal or Formal Bids shall be documented by the College and approved by the President, VPAF or VPAA and given System Office approval by the Vice Chancellor for Facilities (VCF), or the Vice Chancellor for Finance and Administration (VCFA). A single feasible or sole source exists when:

- Supplies or equipment are proprietary and only available from the manufacturer or a single entity and there is no similar equipment available that meets the requirements;
- Supplies or equipment that must be compatible with the original equipment;
- The materials are copyrighted and are only available from the publisher or a single distributor; or
- Donors providing majority funding for materials may specify a particular vendor.

4.4. Notwithstanding any other provisions of this Policy, the Chancellor is authorized to approve exceptions to established purchasing requirements when, in the Chancellor's sole discretion, such exceptions are determined to be in the best interests of the College or System Office. Any request under this section must be documented by the College and submitted by the President.

Exceptions may be approved under circumstances including, but not limited to:

- Strategic business opportunities;
- Situations in which strict adherence to standard contracting procedures would result in unreasonable delays, increased costs, or other adverse impacts to the College or System Office;
- Other exceptional circumstances determined by the Chancellor to warrant an exception, consistent with the System's fiduciary responsibilities and governing requirements.

Nothing in this Policy authorizes the Chancellor to waive or circumvent applicable federal or state statutes. The Chancellor shall ensure that any approved exception is reasonable and appropriately documented in writing, including the business justification for the exception. Approval of an exception under this provision does not establish a precedent for future agreements and shall be exercised sparingly and only when justified by the circumstances. Prior to approving an exception under this section, the Chancellor shall provide notice to the Board of the proposed exception and the business justification for the exception. Any purchase subsequently approved under this section shall be reported to the Board.

## 5. Compliance Requirements

5.1. Purchasing Responsibility

- The responsibility for the purchasing, receiving, storing and distributing of all materials and supplies to support the activities and programs of each College and the System Office, unless otherwise provided, is delegated by the Board to the Presidents or to the Chancellor. The VPAF shall serve as the principal purchasing agent for the College and shall be responsible for the development and implementation of College processes and procedures which conform to the requirements of the Board.
- Should such processes and procedures include the appointment of a College purchasing agent and a decentralized purchasing function, responsibility for conformance with the College's and Board's requirements shall remain with the principal purchasing agent.

5.2 Independence and Conflict of Interest

- While an employee as a prospective user may informally seek information and confer with a vendor about services and product prices, negotiation for purchases of services and products must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included along with other price documentation accompanying a purchase order to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the conflict-of-interest requirements stated below when working with potential vendors.
- An employee, employee's family member, and/or business with which the employee is associated shall not enter into a College or System contract valued at two thousand dollars ($2,000) or more, in any one (1) year, unless the contract is awarded through an open and public process in compliance with Neb. Rev. Stat. §49-14,102.
- An employee should not be involved in an advisory or decision-making capacity relating to College or System purchases where the employee, employee's family member and/or business has a financial interest.
- If an employee, the employee's family or a business with which the employee is associated has a financial interest directly, or indirectly in a College or System purchase the Vice Chancellor for Finance & Administration must review information regarding the financial interest and approve the terms of the purchase and/or contract in advance.

- Employees or employees' family members may not receive or accept, either directly or indirectly, by rebate, gift, or otherwise, any money or other specific item of value whatsoever, or any promise, obligation or contract for future reward or compensation from any vendor, person, firm, corporation or other entity which is conducting business with the College or System.
- For purposes of this Policy, a direct or indirect financial interest does not include de minimis holdings or transactions that are unlikely to influence, or appear to influence, the employee's decision making. A financial interest shall be considered de minimis if: the value of the interest in a publicly traded entity does not exceed $5,000 in aggregate, including stock, stock options, or other ownership interests; and, the employee does not serve in a managerial, board, or executive capacity with the entity; and, the interest does not represent more than 1% ownership in the entity.

5.3 Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a state contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.
- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service connected disability or a disability determination from the United States Department of Defense.
- The resident disabled veteran must own and control a business or, in the case of a publicly owned business, more than fifty percent (50%) of the stock must be owned by one or more persons that meet the definition of a resident disabled veteran. The management and daily business operations of the public business must also be controlled by one or more persons meeting the definition of resident disabled veteran.

5.4 Federal Funding

When purchases are made using federal funds, federal purchasing requirements must also be followed. For those purchases meeting the federal definition of a "covered transaction", the purchaser shall verify that the potential vendor has not been suspended or debarred.

## FORMS/APPENDICES:

None

## SOURCE:

| | | |
|---|---|---|
| **Legal Reference:** | Neb. Rev. Stat. 4-114 | Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties. |
| | Neb. Rev. Stat. 73-107 | Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void. |
| | Neb. Rev. Stat. 85-304 | Board of trustees; powers and duties, enumerated. |

**Policy Adopted:** January 1977

**Policy Revised:** July 1983, March 1990, March 1994, November 1995, September 1997, September 2006, April 2007, June 2010 – Effective July 2010, June 2011, November 2011, March 2013, September 2013, September 2014, March 2015, June 2015, April 2020, September 2021, April 2022, June 2022, November 2022, January 2025, September 2025, September 2026

# Board of Trustees of the Nebraska State Colleges

## Fiscal Operations

**POLICY NAME:** Contracts and Agreements

**POLICY NUMBER:** 6401

---

### A. PURPOSE

To ensure that all situations involving a contract or agreement (hereinafter referred to as contracts) for acquiring services are clear and that the appropriate process is followed when entering into a contract. A contract is necessary whenever a legal relationship is established consisting of rights and duties that go beyond the sale transaction details.

### B. DEFINITIONS

1. **Contract** - A written agreement between two or more parties creating legally enforceable obligations. Whether a document is titled as a contract, an agreement, a memorandum of understanding, or any other type of cooperative undertaking, any written arrangement wherein parties exchange value, such as the exchange of services for payment, is legally considered to be a contract. The relationship's legal status does not change just because the document is labeled as something other than a contract.
2. **Open Solicitation:** Consists of pursuing purchase prices which are secured by telephone calls, prices available online, or letters to potential vendors or from the vendors' published material.
3. **Informal Bids:** An Informal Bid is a written quote from a vendor which may include a facsimile quote or an email. Note that "proposals" and "quotes" have the same meaning as "bids" throughout this policy.
4. **Formal Bids:** Bids are secured from vendors by means of an advertised Request for Proposal (RFP). An RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP. Electronic bids are only allowed when prescribed by the RFP.
5. **Emergency:** Any situation where it is necessary to enter into a contract to (a) avoid the loss of life, health, safety or property; (b) respond to time limits established by an external authority; (c) ensure the continuation of an essential

College service, function, utility, facility or (d) avoid, correct or repair a situation outside the control of the College including detrimental negligence or acts of an employee, natural or manmade disasters.

6. **Revenue Sharing –** A financial arrangement where the parties agree to distribute a portion of the income generated from a specific activity, product, or service. Revenue sharing includes, but is not limited to commissions, royalites, profit sharing, or other forms of revenue distribution.

## C. POLICY

### 1. Application of Policy

- Policy 6401 applies to all situations where there will be a contractual relationship or terms established in writing with a third-party except capital construction and facility maintenance and repair, and where the purchase of fixed facility equipment acquisitions will involve a contract, which fall under Policies 8064 and 8066.
- General consulting contracts in this policy exclude architect and engineer services agreements which are addressed in Policies 8064 and 8066.
- For contracts related to IT purchasing, consulting or services, refer to Policy 7018.
- Purchases of insurance are not subject to these bidding and contract requirements, instead refer to Policy 6608.

### 2. Contract Thresholds

Thresholds are determined based on the total contract amount for the initial term of the contract, not to include renewal periods. All contracts shall conform to the following thresholds for bidding and contract signature approvals.

2.1. All Contracts Except for Consulting Agreements and Revenue Sharing Contracts

- Contracts less than $50,000
  - Signed by the President, Vice President for Administration and Finance (VPAF) or Vice President for Academic Affairs (VPAA). The VPAAs authority is limited to contracts referenced in Section 5.4
  - Open Solicitation applies when the contract will be less than fifty thousand dollars ($50,000). If it is determined by the College or System Office that solicitation of bids for contracts costing less than fifty thousand dollars ($50,000) would result in a lower cost or better service, Informal Bids may be secured in writing by facsimile quotes or emails.

- No contract is required for repair or maintenance services less than fifty thousand dollars ($50,000) to moveable equipment, vehicles, and furnishings.

- From $50,000 but less than $150,000
  - Signed by the President, VPAF, or VPAA (limited per Section 5.4).
  - The contract is awarded using an Informal Bid process. If it is not possible to get three (3) bids, the process and reasons should be documented.
- From $150,000 but less than $300,000
  - Contract is awarded based on a Formal Bid process.
  - Signed by the President, VPAF, or VPAA (limited per Section 5.4).
- $300,000 and above
  - Contract is awarded based on a Formal Bid process.
  - Requires Board approval or Board authorization for the Chancellor to approve.
  - Signed by the Chancellor, Vice Chancellor for Finance and Administration (VCFA) or General Counsel; and the President, VPAF, or VPAA (limited per Section 5.4).

2.2 General Consulting Contracts

- Contracts less than $75,000
  - Signed by the President, VPAF, or VPAA (limited per Section 5.4).
  - Open Solicitation applies when the contract will be less than seventy-five thousand dollars ($75,000). If it is determined by the College or System Office that solicitation of bids for contracts costing less than seventy-five thousand dollars ($75,000) would result in a lower cost or better service, Informal Bids may be secured in writing by facsimile quotes or emails.
- From $75,000 but less than $150,000
  - Signed by Chancellor, VCFA or General Counsel; and the President, VPAF, or VPAA (limited per Section 5.4).
  - The contract is awarded using an Informal Bid process. A minimum of three (3) bids is necessary. If it is not possible to get three (3) bids, the process and reasons should be documented.
- $150,000 or more
  - Requires Board approval or Board authorization for the Chancellor to approve.

- Signed by the Chancellor, VCFA or General Counsel; and the President, VPAF or VPAA.
- Contract is awarded based on a Formal Bid process.

2.3. Revenue Sharing Contracts

- Bidding Exemptions for Revenue Sharing Contracts
  - Educational partnership agreements do not have to be bid even if they include a revenue sharing component.
  - Contracts with vendors located within the state of Nebraska that include revenue sharing for goods and services or projects provided on-campus do not have to be bid.
  - Licensing agreements for the use of the College name, logo or marks do not have to be bid.
- All Other Revenue Sharing Contracts
  - Should utilize a Formal Bid process
  - Must have Board approval
  - Signed by the Chancellor, VCFA or General Counsel; and the President or~~,~~ VPAF. ~~or VPAA~~.

## 3. General Bid Requirements

3.1. Minimum Number of Bidders

If services are to be purchased by the Formal Bid process, the College or System Office shall prepare standards and specifications for the RFP in such a manner it will be possible for three (3) or more vendors to submit bids. If bids are not submitted from three (3) bidders, bids may be accepted from a fewer number of bidders than three (3) upon documentation of the bidding process, including the companies contacted.

3.2. Bid Timelines

The RFP shall state the manner, day and time upon which bids shall be returned, received and opened.

3.3. Bid Preference

When a public bid is to be awarded to the lowest bidder, a Nebraska residential bidder shall be allowed a preference over a non-resident bidder from a state, which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. This provision shall not apply to any contract for any project upon which federal funds would be withheld because of such provisions.

3.4. Nondisclosure

No person in charge of any bids prior to the bid opening time shall open them prior to that time or otherwise disclose to any bidder the contents, amount, or other details of any rival bid.

3.5. Lowest Bidder

Purchases of services are generally made from the lowest bidder, taking into consideration the best interest of the College, the quality of the materials proposed to be supplied, conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest bidder, in addition to price, the College may develop criteria specific to a purchase or may give the following elements consideration when appropriate:

- The ability, capacity and skill of the bidder to meet the specifications;
- The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- Whether the bidder can meet the delivery expectations;
- The performance on past awarded bids;
- The previous and existing compliance by the bidder with laws relating to the contract;
- The life-cycle costs of the personal property in relation to the purchase price and specific use of the item;
- The performance of the materials, taking into consideration any commonly accepted tests and standards of product usability and user requirements; and
- Such other information as may be secured having a bearing on the decision to award the bid.

3.6. Bid Rejection

Any or all bids may be rejected, including the bid of any bidder who has failed to perform a previous contract with the Colleges. In any case, where Formal Bids are required and all bids rejected, and the proposed purchase is not abandoned, new bids shall be called for as in the first instance.

**4. Exceptions, Emergencies, and Sole Sourcing**

4.1. Exceptions to Bidding Requirements

The following are exceptions to the bid requirements. Documentation justifying the exception should be kept on file by the College or System Office:

- Purchasing services from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multi-state compact contract. Competitively bid government contracts by non-government entities such as consortiums, organizations, and partnerships are also included.
- When pricing has been established by the federal General Services Administration.

- Placement of ads or advertising.
- Purchase of insurance as addressed in Policy 6608.
- Other exceptions include medical clinics and nursing services.

4.2. Emergency

Emergency purchases shall be documented by the College and submitted to the President~~,~~ or VPAF~~ or VPAA~~, for approval by the Chancellor. Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency.

4.3. Sole Source

Documentation to purchase based on sole source without Informal or Formal Bids shall be documented by the College and approved by the President~~,~~ or VPAF,~~, or VPAA~~ and given System Office approval by either the VCF or VCFA. A sole source purchase is when there is only a single feasible or sole source for the services. A single feasible or sole source exists when:

- Services are proprietary and only available from the company or a single entity.
- The same vendor/contractor of an installed pilot project system is required to install expansions to that system.
- Factory authorized maintenance services must be utilized in order to maintain a warranty or integrity of system.
- Only one (1) type of product or solution exists for a specific service.
- The services of a particular provider are unique, e.g. entertainers, authors, etc.
- Based on current research, it is determined that only a single entity services the region in which the services are needed.

4.4. Notwithstanding any other provisions of this Policy, the Chancellor is authorized to approve exceptions to established contract requirements when, in the Chancellor's sole discretion, such exceptions are determined to be in the best interests of the College or System Office. Any request under this section must be documented by the College and submitted by the President.

Exceptions may be approved under circumstances including, but not limited to:

- Strategic business opportunities;
- Situations in which strict adherence to standard contracting procedures would result in unreasonable delays, increased costs, or other adverse impacts to the College or System Office;

- Other exceptional circumstances determined by the Chancellor to warrant an exception, consistent with the System's fiduciary responsibilities and governing requirements.

Nothing in this Policy authorizes the Chancellor to waive or circumvent applicable federal or state statutes. The Chancellor shall ensure that any approved exception is reasonable and appropriately documented in writing, including the business justification for the exception. Approval of an exception under this provision does not establish a precedent for future agreements and shall be exercised sparingly and only when justified by the circumstances. Prior to approving an exception under this section, the Chancellor shall provide notice to the Board of the proposed exception and the business justification for the exception.  Any contract subsequently approved under this section shall be reported to the Board.

## 5. Compliance Requirements

5.1. Contract Execution

No work should be performed under the contract until it has been signed by all parties.  No contract, lease, or purchase agreement that requires approval by the Board or Chancellor shall be signed or finalized in any form until the Board or Chancellor has authorized the College to enter into the contract.

5.2. Contract Cancellation

Contracts can only be cancelled by individuals who are authorized to sign contracts on behalf of the College.

5.3. Non-Appropriation Clause

No contract may commit funds for a future fiscal year, unless specific funding has been identified in a Legislative appropriation bill or an appropriate cancellation clause has been inserted in the contract.

5.4. Contract Negotiation and Authorization

College departments are responsible for negotiating contracts prior to submission to the appropriate Vice President. The Presidents and VPAFs are primarily responsible for signing College contracts.~~, however, t~~*The VPAAs may only sign contracts of an academic nature including, but not limited to, Academic Collaborations, Partnerships and Affiliations; Academic Transfer or Articulation Agreements; Academic Camps; Community Service and Service Learning; International Travel; Library Collections; academic events, speakers or activities; and work-based learning experiences, such as internships, practicums, clinical placements, student teaching, etc.

5.5. Chancellor Approval

The Chancellor can execute and sign a contract in place of the President, VPAF or VPAA for a College.

5.6. Contract Reporting

Contracts over one hundred fifty thousand dollars ($150,000) and all subsequent change orders, addenda and amendments over fifty thousand dollars ($50,000) shall be reported to the Board.

5.7. Contract Form

- The NSCS standard contract forms are to be used whenever possible. (See Contracts and Procurement found at www.nscs.edu.)
- In cases where there are no alternatives to using vendor contract forms, the applicable provisions of the appropriate NSCS form need to be incorporated into the contract.
- If an online user agreement (sometimes referred to as a “click-through agreement”) is required for a purchase, the terms and conditions are to be approved by the appropriate Vice President.

5.8. Independence and Conflict of Interest

- While an employee, as a prospective user, may informally seek information and confer with a vendor about services and product prices, negotiation for purchases of services and products must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included, along with other price documentation accompanying a purchase order, to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the conflict-of-interest requirements stated below when working with potential vendors.
- An employee, employee’s family member, and/or business with which the employee is associated shall not enter into a College or System contract valued at two thousand dollars ($2,000) or more, in any one (1) year, unless the contract is awarded through an open and public process in compliance with Neb. Rev. Stat. §49-14,102.
- An employee should not be involved in an advisory or decision-making capacity relating to College or System purchases where the employee, employee’s family member and/or business has a financial interest.
- If an employee, the employee’s family or a business with which the employee is associated has a financial interest directly, or indirectly in a College or System purchase the VCFA~~ice Chancellor for Finance &~~

~~Administration~~ must review information regarding the financial interest and approve the terms of the purchase and/or contract in advance.

- Employees or employees' family members may not receive or accept, either directly or indirectly, by rebate, gift, or otherwise, any money or other specific item of value whatsoever, or any promise, obligation or contract for future reward or compensation from any vendor, person, firm, corporation or other entity which is conducting business with the College or System.
- For purposes of this Policy, a direct or indirect financial interest does not include de minimis holdings or transactions that are unlikely to influence, or appear to influence, the employee's decision making. A financial interest shall be considered de minimis if: the value of the interest in a publicly traded entity does not exceed $5,000 in aggregate, including stock, stock options, or other ownership interests; and, the employee does not serve in a managerial, board, or executive capacity with the entity; and, the interest does not represent more than 1% ownership in the entity.

5.9. Threshold Adherence

All services shall be bid as a single whole item. In no case shall services be divided or broken up to produce several smaller contracts, which are each of an estimated value below a particular threshold bidding requirement.

5.10. Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a state contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.
- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense.
- The resident disabled veteran must own and control a business or, in the case of a publicly owned business, more than fifty percent (50%) of the stock must be owned by one (1) or more persons that meet the definition of a resident disabled veteran. The management and daily business operations of the public business must also be controlled by one (1) or more persons meeting the definition of resident disabled veteran.

5.11. Federal Funding

When services are purchased with federal funds, federal purchasing requirements must also be followed. For those purchases meeting the federal definition of a “covered transaction”, the purchaser shall verify that the potential vendor has not been suspended or debarred.

**6. Contracts Delegated to Colleges or System Office**

The following contracts do not require review and approval by the Board or the Chancellor, but must adhere to approval and bidding requirements, if appropriate:

- Any contracts that establish placements for students to complete work-based learning experiences, such as an internship, practicum, clinical placement, student teaching, etc.
- Any community service and service-learning contract.
- Any Northeast Nebraska Teacher Academy agreement (NENTA).
- Any articulation agreement to determine course equivalencies in accordance with Board Policies.
- Any bus chartering contracts.
- Any contract for the purchase of supplies and commodities used in the regular course of business operations.
- Any contract for the purchase of a license to use a mailing list, email list, or similar list of contacts.
- Any contract for trash services.
- Any contract with the state or federal government for the provision of Financial Aid.
- Any contract or change order or addendum associated with an emergency approved by the Chancellor.

**7. Contracts Requiring Board Approval at Any Amount**

7.1 Revenue Bond Auditors

All revenue bond auditor contracts as detailed in Policy 6800 require Board approval regardless of the dollar amount. All contracts related to revenue bond facilities will be in accordance with the indentures, statutes, and related Board policies.

7.2 Educational Partnerships

- All contracts establishing collaborative, educational partnerships, and international study abroad trips require Board approval. Contracts, Memorandum of Understandings, or Agreements establishing collaborative, educational partnerships between the Colleges and external entities must be approved in advance by the Board and signed by the Chancellor.

- Contracts related to international study abroad trips are considered educational partnerships and must be approved in advance by the Board.
- Contracts that are solely for the purpose of exploring the potential for future substantive contracts do not require approval of the Board and shall be signed the President or the VPAA.

7.3 Food Service and Bookstore Contracts

All external food service and bookstore contracts require Board approval in advance, per Policies 9300 and 9500.

**8. Consultant Contract Guidance**

The Board recognizes the value and financial savings that may accrue from the use of experienced consultants to the Board, staff and faculty on special aspects of College and System Office programs. Since no College can include in its personnel appointments all the highly qualified and widely experienced people on all phases of College or System Office operations, the Board will therefore contract from time to time, as appropriate, with individuals or groups for special consulting services.

8.1. CPA Firms, Lobbyist and Search Consultants

The hiring and retention of personnel,~~ excluding annual auditors which are approved by the Board~~, hired for a duration greater than five (5) days for any College or the System Office, shall be approved by the Chancellor. The Chancellor is delegated the responsibility for selecting and negotiating these services on behalf of the Board. The Chancellor shall determine if a contract is necessary. A Formal Bid process is not required. In each instance the Chancellor shall notify the Board.

8.2 Legal Services

All legal services shall be coordinated through the System Office as approved by the Chancellor. The Colleges are not authorized to obtain legal services or hire attorneys.

8.3 System Consultants

The Chancellor is delegated the responsibility for selecting and negotiating on behalf of the Board all other special consulting contracts for the System where the total cost is expected to be under one hundred fifty thousand dollars ($150,000). Such contracts shall be signed by the Chancellor, VCFA or General Counsel.

**SOURCE:**

| | | |
|---|---|---|
| **Legal Reference:** | Neb. Rev. Stat. 4-114 | Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties. |
| | Neb. Rev. Stat. 73-107 | Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void. |
| | Neb. Rev. Stat. 85-304 | Board of trustees; powers and duties, enumerated. |

**Policy Adopted:** July 1983

**Policy Revised:** March 1994, June 1995, April 2007, November 2011, March 2013, September 2013, November 2014, June 2015, May 2016, June 2017, September 2018, March 2019, September 2019, April 2020, July 2020, September 2021, April 2022, November 2022, April 2023, April 2024, November 2024, January 2025, September 2025, September 2026

## Board of Trustees of the Nebraska State Colleges

## Information Technology and Security

| | |
|---|---|
| **POLICY NAME:** | Information Technology (IT) Purchasing and Services |
| **POLICY NUMBER:** | 7018 |

### A. PURPOSE

To ensure that the procurement of all types of technology resources including IT products, IT equipment, hardware, software, licenses, subscriptions and all services and consulting meet appropriate technology standards and established requirements.

### B. DEFINITIONS

1. **Open Solicitation:** Consists of pursuing purchase prices which are secured by telephone calls, prices available online, or letters to potential vendors or from the vendors' published material.
2. **Informal Bids:** An Informal Bid is a written quote from a vendor which may include a facsimile quote or an email. Note that "proposals" and "quotes" have the same meaning as "bids" throughout this policy.
3. **Formal Bids:** Bids are secured from vendors by means of an advertised Request for Proposal (RFP). An RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP. Electronic bids are only allowed when prescribed by the RFP.
4. **Information Technology (IT):** IT includes devices and software that have a primary function related to the collection, transfer, storage, or processing of data. Equipment includes classroom and office equipment used to display or print data. Computers, printers, monitors, keyboards, servers, drivers, switches, routers, network cable and software licenses, all fall within Information Technology. In addition, any device connecting to the campus network is defined as IT. This includes, but is not limited to, HVAC equipment, lighting fixtures, laundry machines, televisions, and cameras.
5. **Emergency:** Any situation where it is necessary to enter into a contract to (a) avoid the loss of life, health, safety or property; (b) respond to time limits established by an external authority; (c) ensure the continuation of an essential

College service, function, utility, facility, or computer/software system; (d) avoid, correct or repair a situation outside the control of the College including detrimental negligence or acts of an employee, natural or manmade disasters, and security or data compromise.

## C. POLICY

### 1. Information Technology Purchases and Services

1.1. Technology Approvals

Security of data and requirements for NSCS Technology Resources need to be considered when employees make IT purchases. In accordance with Policy 7003, Standard 10: Technology Resources Acquisition, all employees must consult with the applicable College or System Office Chief Information Officer (CIO), **before** developing, purchasing or contracting for products, services and/or consulting that have implications for Technology Resource components, data security or technical support. This includes, but is not limited to, cloud services, communication systems, information storage and processing systems, software systems, hosted services, physical facilities related to such systems and contractual relationships with vendors of such systems and services.

### 2. Contracting and Purchasing Thresholds

Thresholds are determined based on the total contract amount for the initial term of the contract, not to include renewal periods. All purchases shall conform to the following thresholds for bidding and contract signature approvals.

2.1. All Purchases Except for IT Consulting Agreements

- Purchases less than $50,000
  - Open Solicitation applies when the purchase will be less than fifty thousand dollars ($50,000). If it is determined by the College CIO or VPAF, or the System Office CIO, that solicitation of quotes for purchases costing less than fifty thousand dollars ($50,000) would result in a lower cost or better service, Informal Bids may be secured in writing by facsimile quotes or emails.
  - No contract is required for IT repair or maintenance services less than fifty thousand dollars ($50,000) for IT systems and equipment.
  - Contracts signed by the President or Vice President for Administration and Finance (VPAF), or the Chancellor or General Counsel.
- From $50,000 but less than $300,000
  - The purchase is made using an Informal Bid process. If it is not possible to get three (3) quotes, the process and reasons should be documented.

    - Contracts signed by the President or VPAF, or the Chancellor or General Counsel.
- $300,000 and above
    - Purchase is made based on a Formal Bid process.
    - A Selection Committee will be formed. See Section 4 below.
    - Contracts require Board approval or Board authorization for the Chancellor to approve.
    - Contracts signed by the Chancellor, Vice Chancellor for Finance and Administration (VCFA) or General Counsel; and the President or VPAF.

2.2 IT Consulting Contracts

- Contracts less than $75,000
    - Open Solicitation applies when the contract will be less than seventy-five thousand dollars ($75,000). If it is determined by the College CIO or VPAF, or the System Office CIO that solicitation of quotes for contracts costing less than seventy-five thousand dollars ($75,000) would result in a lower cost or better service, Informal Bids may be secured in writing by facsimile quotes or emails.
    - Contracts signed by the President or VPAF, or the Chancellor or General Counsel.
- From $75,000 but less than $150,000
    - The contract is awarded using an Informal Bid process. A minimum of three (3) quotes is necessary. If it is not possible to get three (3) quotes, the process and reasons should be documented.
    - Contracts signed by Chancellor, VCFA or General Counsel; and the President or VPAF.
- $150,000 or more
    - Contract is awarded based on a Formal Bid process.
    - A Selection Committee will be formed. See Section 4 below.
    - Requires Board approval or Board authorization for the Chancellor to approve.
    - Contracts signed by the Chancellor, VCFA or General Counsel; and the President or VPAF.

**3. Contracts Delegated to Colleges or System Office**

The following contracts do not require review and approval by the Board or the Chancellor, but must adhere to approval and bidding requirements, if appropriate:

- Any contract for the purchase of IT supplies and commodities used in the regular course of business operations.
- Any IT contract for the purchase of a license to use a mailing list, email list, or similar list of contacts.
- Any contract for cable television and internet services.
- Any IT contract or change order or addendum associated with an emergency approved by the Chancellor.

**4. Information Technology (IT) Selection Committee**

4.1. Selection Committee for Formal Bid Process

- The project leader is responsible for determining the IT selection committee, which shall consist of at least two (2) other members from the College or System Office.
- Each IT selection committee will be responsible for the development of the Request for Proposal (RFP) specifications, requirements and criteria for proposal evaluation and ranking. The committee will evaluate proposals and select the best proposal based on application of the stated criteria and any additional information derived through interviews.
- The committee may also consider "best and final offers" to determine final selection and award of contract.

**5. General Bid Requirements**

5.1. Minimum Number of Bidders

If items or services are to be purchased by the Formal Bid process, the College or System Office shall prepare standards and specifications for the Request for Proposal (RFP) in such a manner it will be possible for three (3) or more manufacturers, vendors, or suppliers to submit Formal Bids. If bids or proposals are not submitted from three (3) vendors, they may be accepted from a fewer number of vendors than three (3), upon documentation of the RFP process including the companies contacted.

5.2. Bid Timelines

The RFP shall state the manner, day and time upon which bids or proposals shall be returned and received.

5.3. Nondisclosure

No person in charge of, or a selection committee member of, any RFP's prior to the time fixed for receipt of proposals shall disclose to any vendor the contents, amount, or other details of any rival proposal.

5.4. Lowest Bidder

Purchases are generally made from the lowest bidder, taking into consideration the best interest of the College, the quality of the materials proposed to be supplied, conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest bidder, in addition to price, the College may develop criteria specific to a purchase or may give the following elements consideration when appropriate:

- The ability, capacity and skill of the bidder to meet the specifications;
- The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- Whether the bidder can meet the delivery expectations;
- The performance on past awarded bids;
- The previous and existing compliance by the bidder with laws relating to the contract;
- The life cycle costs of the personal property in relation to the purchase price and specific use of the item;
- The performance of the materials, taking into consideration any commonly accepted tests and standards of product usability and user requirements; and
- Such other information as may be secured having a bearing on the decision to award the bid.

5.5 Bid Rejection

Any or all bids or proposals may be rejected including the proposal of any vendor who has failed to perform a previous contract with the Colleges. In any case, where Formal Bids are required and all proposals rejected, and the proposed purchase is not abandoned, new RFP's shall be called for as in the first instance.

**6. Exceptions, Emergencies, and Sole Sourcing**

6.1. Exceptions to bidding and RFP Requirements

The following are exceptions to bidding and RFP requirements. Documentation justifying the exception should be kept on file by the College.

- Used IT items and equipment.
- Technology license renewals.
- Technology maintenance contracts.
- Library electronic subscription services and acquisitions.
- Purchasing from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multistate compact contract. Competitively bid government contracts

by non-government entities such as consortiums, organizations, and partnerships are also included.

- When pricing has been established by the federal General Services Administration.

6.2 Emergency

Emergency purchases shall be documented by the College and/or System Office CIO and submitted by the President or VPAF to the System Office CIO and Chancellor for approval. Chancellor approval of an emergency automatically includes the suspension of bidding and RFP requirements as appropriate for each emergency.

6.3 Sole Source

A sole source purchase is when there is only a single feasible or sole source for the IT items, systems, equipment, or services. Documentation to purchase based on sole source without Informal or Formal Bids shall be documented by the College and/or System Office CIO and approved by the President or VPAF and then given System Office approval by the System Office CIO or Chancellor. A single feasible or sole source exists when:

- IT items, systems, equipment, or services are proprietary and only available from the vendor or a single entity and there are no similar items, systems, equipment, or services available that meets the requirements;
- IT items, systems, equipment, or services that must be compatible with the original equipment, systems, or services;
- The software or materials are copyrighted and are only available from the vendor or a single distributor; or
- Donors providing majority funding for an IT project may specify a particular vendor.

6.4 Notwithstanding any other provisions of this Policy, the Chancellor is authorized to approve exceptions to established contract and purchasing requirements when, in the Chancellor's sole discretion, such exceptions are determined to be in the best interests of the College or System Office. Any request under this section must be documented by the College and/or System Office CIO and submitted by the President or System Office CIO.

Exceptions may be approved under circumstances including, but not limited to:

- Strategic business opportunities;
- Situations in which strict adherence to standard contracting procedures would result in unreasonable delays, increased costs, or other adverse impacts to the College or System Office;

- Other exceptional circumstances determined by the Chancellor to warrant an exception, consistent with the System's fiduciary responsibilities and governing requirements.

Nothing in this Policy authorizes the Chancellor to waive or circumvent applicable federal or state statutes. The Chancellor shall ensure that any approved exception is reasonable and appropriately documented in writing, including the business justification for the exception. Approval of an exception under this provision does not establish a precedent for future contracts or purchases and shall be exercised sparingly and only when justified by the circumstances. Prior to approving an exception under this section, the Chancellor shall provide notice to the Board of the proposed exception and the business justification for the exception. Any contract subsequently approved under this section shall be reported to the Board.

## 7. Compliance Requirements

7.1 Purchasing Responsibility

- The responsibility for the purchasing, receiving, storing and distributing of all materials and supplies to support the activities and programs of each College and the System Office, unless otherwise provided, is delegated by the Board to the Presidents or to the Chancellor. The VPAF shall serve as the principal purchasing agent for the College and shall be responsible for the development and implementation of College processes and procedures which conform to the requirements of the Board.
- Should such processes and procedures include the appointment of a College purchasing agent and a decentralized purchasing function, responsibility for conformance with the College's and Board's requirements shall remain with the principal purchasing agent.

7.2 Independence and Conflict of Interest

- While an employee, as a prospective user, may informally seek information and confer with a vendor about services and product prices, negotiation for purchases of services and products must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included, along with other price documentation accompanying a purchase order, to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the conflict-of-interest requirements stated below when working with potential vendors.

- An employee, employee's family member, and/or business with which the employee is associated shall not enter into a College or System contract valued at two thousand dollars ($2,000) or more, in any one (1) year, unless the contract is awarded through an open and public process in compliance with Neb. Rev. Stat. §49-14,102.
- An employee should not be involved in an advisory or decision-making capacity relating to College or System purchases where the employee, employee's family member and/or business has a financial interest.
- If an employee, the employee's family or a business with which the employee is associated has a financial interest directly, or indirectly in a College or System purchase the Vice Chancellor for Finance & Administration must review information regarding the financial interest and approve the terms of the purchase and/or contract in advance.
- Employees or employees' family members may not receive or accept, either directly or indirectly, by rebate, gift, or otherwise, any money or other specific item of value whatsoever, or any promise, obligation or contract for future reward or compensation from any vendor, person, firm, corporation or other entity which is conducting business with the College or System.
- For purposes of this Policy, a direct or indirect financial interest does not include de minimis holdings or transactions that are unlikely to influence, or appear to influence, the employee's decision making. A financial interest shall be considered de minimis if: the value of the interest in a publicly traded entity does not exceed $5,000 in aggregate, including stock, stock options, or other ownership interests; and, the employee does not serve in a managerial, board, or executive capacity with the entity; and, the interest does not represent more than 1% ownership in the entity.

7.3 Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a state contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.
- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service connected disability or a disability determination from the United States Department of Defense.

- The resident disabled veteran must own and control a business or, in the case of a publicly owned business, more than fifty percent (50%) of the stock must be owned by one or more persons that meet the definition of a resident disabled veteran. The management and daily business operations of the public business must also be controlled by one or more persons meeting the definition of resident disabled veteran.

7.4 Federal Funding

When purchases are made using federal funds, federal purchasing requirements must also be followed. For those purchases meeting the federal definition of a "covered transaction", the purchaser shall verify that the potential vendor has not been suspended or debarred.

## FORMS / APPENDICES:

None

## SOURCE:

| | | |
|---|---|---|
| **Legal Reference:** | Neb. Rev. Stat. 4-114 | Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties. |
| | Neb. Rev. Stat. 73-107 | Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void. |
| | Neb. Rev. Stat. 85-304 | Board of trustees; powers and duties; enumerated. |

**Policy Adopted:** March 1994

**Policy Revised:** September 1997, February 204, September 2006, November 2009, April 2010, March 2013, June 2015, September 2021, February 2022, August 2023, February 2025, September 2025, September 2026

# Board of Trustees of the Nebraska State Colleges

## Facilities

| | |
|---|---|
| **POLICY NAME:** | Capital Construction, Facility Maintenance and Repair Contracts, and Fixed Equipment Acquisitions |
| **POLICY NUMBER:** | 8064 |

## A. PURPOSE

To explain requirements for capital construction, facility maintenance and repair contracts, and the process for acquiring fixed equipment.

Acquiring moveable equipment must follow Policies 6400 and 6401. Professional consulting services related to capital construction must follow Policy 8066.

## B. DEFINITIONS

1. **Construction Project:** Any new facility, expansion of a current facility, major remodeling, or renovation of a current facility.
2. **Maintenance and Repair Project:** The routine upgrades, replacements of facility components, or repairs to current facilities.
3. **Informal Bids:** An Informal Bid is a written quote from a vendor which may include a facsimile quote or an email from the vendor.
4. **Formal Bids:** Bids or proposals secured from contractors, vendors and bidders by means of an advertised public notice bid solicitation or Request for Proposal (RFP). An RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids. A minimum of fifteen (15) calendar days shall elapse between the time the public notice or RFP opportunity is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified. Facsimile quotes or emails received by the institution are not allowed during this formal process.
5. **Facility or Facilities:** Any buildings or structures, above or below ground. May also refer to campus grounds, landscaping, and utility systems.
6. **Capital Construction Project:** A project estimated at $2,000,000 and above for renovation and new construction of programmatic spaces, per Policy 8060.
7. **Emergency:** Any situation where it is necessary to enter into a contract to (a) avoid the loss of life, health, safety or property; (b) respond to time limits established by an external authority; (c) ensure the continuation of an essential College service, function, utility, facility or (d) avoid, correct or repair a situation

outside the control of the College including detrimental negligence or acts of an employee, natural or manmade disasters.

8. **Fixed Equipment:** Equipment that is affixed to the facility and is not movable.

## C. POLICY

### 1. Contracting and Fixed Equipment Acquisition Thresholds

All contracts and fixed equipment acquisitions shall conform to the following dollar thresholds and bidding process.

1.1 Less than $50,000 – Bids not required

Competitive bidding is not required for projects and fixed equipment that are less than fifty thousand dollars ($50,000). The College may contract directly with a contractor after negotiating a contract price that is reasonable and within budget.

- No contract is required for repair, maintenance, or construction services less than fifty thousand dollars ($50,000) for fixed equipment, facilities, and grounds.

1.2 From $50,000 but less than $300,000 – Informal Bid process

Construction and fixed equipment contracts with a total cost between fifty thousand dollars ($50,000) and less than three hundred thousand dollars ($300,000) shall observe the following bidding procedure.

- Three (3) or more quotations shall be solicited from bidders. Original quotations may be obtained in writing or verbally. Any verbal quotations must be followed up with a written or faxed confirmation for project files.
- A fixed bid receipt date or public opening is not required.
- A contract shall be executed for the project after negotiating a price that is reasonable and within budget.
- All resulting quotations or refusals to quote shall be documented by the College.

1.3 $300,000 or more – Formal Bid process

Construction and maintenance contracts and fixed equipment with a total cost of three hundred thousand dollars ($300,000) or more shall use the Formal Bid process.

### 2. Project and Contract Approvals

2.1. Approval of Projects

- No capital construction, maintenance or repair contract may commit funds for a project until the funds have been identified and approved by the Board, with the exception of Task Force for Building Renewal 309 funds.
- While Task Force projects must follow all other requirements in this Policy, unless otherwise noted, 309 funding does not have to be accepted by the Board prior to committing funds in accordance with this Policy.
- For state funded projects, the appropriation must have been received before construction contracts are submitted for approval.
- For revenue bond projects, bond proceeds or surplus funds must be available, and their expenditure approved by the Board before construction contracts are executed.

2.2 Contracts and Change Orders for College Approval and Execution

The President or Vice President for Administration and Finance (VPAF) is delegated the responsibility for bidding, negotiating, and signing on behalf of the Board the following types of construction contracts and any related change orders/addenda.

- Any contract for the construction, alteration, renovation, remodeling, repair, or demolition of any building or other improvement to real property, under which payment by the College will be less than three hundred thousand dollars ($300,000).
- Contracts with architects or engineers or consultants where the fee will be less than one hundred fifty thousand dollars ($150,000).
- Contract change orders, addenda and amendments involving each additional expenditure under one hundred fifty thousand dollars ($150,000).

2.3 Board Approval of Contracts and Change Orders

The following types of contracts are to be submitted to the Board for approval.

- Capital construction, facility maintenance or repair contracts amounting to three hundred thousand dollars ($300,000) or more.
- Any contract with an engineer or architect where the fee will be one hundred fifty thousand dollars ($150,000) or more.
- Contract change orders and addenda involving additional expenditure of one hundred fifty thousand dollars ($150,000) or more.
- Once approved by the Board (or the Chancellor per 2.4 below), the construction or maintenance contract shall be signed by the President

or VPAF, and then by the Chancellor, Vice Chancellor for Finance and Administration (VCFA) or General Counsel. A contract signed by the vendor should be available for execution at the Board meeting when approved.

2.4 Board Approval Exception: Chancellor Authorization to Approve and Sign Contracts and Change Orders

If approval of any construction or maintenance contracts and change orders are critical to the schedule of the project, the Chancellor is authorized to approve and sign these contracts and change orders at the following thresholds.

- The Chancellor shall be authorized to approve construction and maintenance contracts of three hundred thousand dollars ($300,000) or more, so long as the Board has authorized the project and compliance with all specifications, bidding and contract procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.
- The Chancellor shall be authorized to approve engineer or architect contracts of one hundred fifty thousand dollars ($150,000) or more, so long as the Board has authorized the project and compliance with all consultant selection procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.
- If approval of a contract, change order or addenda requires immediate action, the Chancellor has the option of approving it as an emergency similar to 4.2 below. Such approved emergency contracts, change orders and addenda will be provided as an information item at the next Board meeting.

**3. Formal Bidding Requirements**

The details below must be followed when using a Formal Bid process to award a contract.

3.1. Specifications

All specifications and plans for buildings to be renovated or constructed are to be prepared by professional architects and/or engineers in accordance with state law. The specifications and plans shall be prepared to conform with the budget amount authorized for that project.

3.2. Advertising

A public notice for construction shall appear once in a publication based in or near the locality of the project and in other widely circulated publications and electronic platforms as deemed necessary by the College. A copy of the advertisement shall be kept on file with the College. The notice shall not appear on a weekend or holiday. A minimum of fifteen (15) calendar days shall elapse between the time Formal Bids are first advertised or called for and the time of their opening. The notice, bid specifications or RFP shall include, at a minimum, the following information.

- Name of Board of Trustees and the College
- Description of project
- Date, place and time when bids must be received
- Person to contact for information
- Locations where bid documents can be viewed/obtained

3.3. Bid Submission and Opening

Bids shall be submitted in a sealed envelope with notation of the project on the front. Bids shall be opened on the date, time and place as advertised. The bid opening shall be conducted in public so that all bidders and interested parties may be present. No bids are to be received after the specified time and if so, are to be returned unopened. The bidder's envelope is to be attached to the back of the bid form. College staff or the professional consultant shall be responsible for opening and reading aloud the bids. Bid documents shall be considered public information after they have been opened. The following requirements shall be noted at the time of opening the bid.

- Conformance with bidding instructions
- Accompanied by bid bond or certified check or sent in separately in case of a bid submitted electronically
- Acknowledgment of any addendum
- Bid is signed

3.4. Evaluation

When bids are received, publicly opened and read, the contractors shall not be notified of the final decision until a later date so that adequate study and analysis can be made of the bids received. The professional consultant shall evaluate the bids received and make a recommendation to the College. Awarding of the contracts shall be based on competitive bidding with award to the lowest bidder, taking into consideration the best interests of the State of Nebraska and the System, the quality or performance of the firm and the materials to be supplied, their conformity with specifications, and the times of completion. In determining the lowest bidder, in addition to price, the following elements shall be given consideration.

- The ability, capacity and skill of the bidder to perform the contract required;

- The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- Whether the bidder can perform the contract within the time specified;
- The quality of performance of previous contracts;
- The previous and existing compliance by the bidder with laws relating to the contract;
- Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- The life cost of the article or property in relation to the purchase price and the specific use of the item;
- The performance of the article or property, taking into consideration any commonly accepted tests and standards of produce usability and user requirements; and
- Such other information as may be secured having a bearing on the decision to award the contract.

3.5. Bid Acceptance

The recommendation, bid tab sheet and other applicable materials shall be kept on file by the College for review. If less than three (3) bids or proposals are received, then bids may be accepted upon documentation of the bidding process. If the recommendation is to reject the lowest bid for any one or more of the reasons stated above, the recommendation must include the reason(s) for the rejection. The Nebraska State College System (NSCS) always reserves the right to reject any or all bids.

**4. Exceptions, Emergencies and Sole Sourcing**

4.1. Exceptions to Bidding Requirements.

The following are exceptions to bidding requirements. Documentation justifying the exception should be kept on file by the College.

- Purchasing from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multistate compact contract. Competitively bid government contracts by non-government entities, such as consortiums, organizations, and partnerships, are also included.
- When pricing has been established by the federal General Services Administration
- Utilities and fuels, including woodchips
- Advertising for facility projects
- Facility maintenance agreements

4.2. Emergency

- Proposed emergency projects and fixed equipment acquisitions meeting the definition of an emergency shall be documented by the College and submitted to the Vice Chancellor for Facilities (VCF) for approval by the Chancellor.
- Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency.

4.3. Sole Source

A sole source exception would be permitted where there is only one firm with the necessary skillset to perform the services or there are other extenuating circumstances. Documentation to hire a vendor based on sole source without competitive bids or proposals shall be documented by the College and approved by the VPAF and either the VCF or the VCFA. A sole source situation may exist under the following conditions.

- Services are proprietary and only available from the manufacturer of a building system or equipment and the vendor is the only firm providing the unique expertise.
- Additions to a system must be compatible with the original equipment or facility software.
- The same vendor of an installed system is necessary to install expansions to that system.
- Factory authorized maintenance services must be utilized to maintain a warranty or the integrity of system.
- Based on current research, it is determined that only a single entity services the region in which the project is needed.
- Donors providing the funding for an item, service or system may specify a particular vendor, manufacturer, or brand of equipment to be used for the project.

4.4. Not withstanding any other provisions of this Policy, the Chancellor is authorized to approve exceptions to established contract and purchasing requirements when, in the Chancellor's sole discretion, such exceptions are determined to be in the best interests of the College or System Office. Any request under this section must be documented by the College and submitted by the President.

Exceptions may be approved under circumstances including, but not limited to:

- Strategic business opportunities;

- Situations in which strict adherence to standard purchasing procedures would result in unreasonable delays, increased costs, or other adverse impacts to the College or System Office;
- Other exceptional circumstances determined by the Chancellor to warrant an exception, consistent with the System's fiduciary responsibilities and governing requirements.

Nothing in this Policy authorizes the Chancellor to waive or circumvent applicable federal or state statutes. The Chancellor shall ensure that any approved exception is reasonable and appropriately documented in writing, including the business justification for the exception. Approval of an exception under this provision does not establish a precedent for future contracts or purchases and shall be exercised sparingly and only when justified by the circumstances. Prior to approving an exception under this section, the Chancellor shall provide notice to the Board of the proposed exception and the business justification for the exception. Any contract or purchase subsequently approved under this section shall be reported to the Board.

## 5. General Contract Guidance

5.1. Performance Bond

For any construction project that has a total cost of more than three hundred thousand dollars ($300,000), the successful bidder for the project shall be required to furnish a Performance Bond and a Labor Material Payment Bond, each in the amount of one hundred percent (100%) of the contract sum and written by a Surety licensed to do business in the State of Nebraska.

5.2. Resident Bidder Preference

When a public contract is to be awarded to the lowest bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state.

5.3. Contract Negotiation and Legal Requirements

A contract may be conditioned upon later refinements in scope and price and may permit the College, with written agreement by the contractor, to make changes in the project or the purchase without invalidating the contract. Later refinements shall not exceed the budget or available funding for the project.

5.4. Fair Labor Standards Compliance

All bidders on College projects must file a statement that they are complying with, and will continue to comply with, fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding.

5.5. Drug Free Workplace Compliance

All bidders must also comply with the State of Nebraska's Drug Free Workplace requirement. The proposal form used to bid projects shall contain a clause, which, when the proposal is signed by the bidder certifies that the firm has a drug free workplace policy in accordance with State requirements.

5.6. Non-Discrimination Requirement

The Contractor agrees to comply fully with Title VI of the Civil Rights Act of 1964, as amended, the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §§48-1101 to 48-1125, as amended, and Board Policy 5000. Unlawful harassment and/or discrimination in employment and procurement is prohibited. The Contractor further agrees to insert a similar provision in all subcontracts for services.

5.7. Contract Forms

- All contracts for construction and maintenance projects and related services of three hundred thousand dollars ($300,000) or more will be reviewed by General Counsel or VCF prior to submission to the Board for consideration and action.
- Contract forms developed by the System Office may be used for all construction and other related services where the cost will be less than three hundred thousand dollars ($300,000).
- If the project will be three hundred thousand dollars ($300,000) or more, and a professional architect or engineer has designed and specified the project, the latest applicable American Institute of Architects (AIA) contract form must be utilized and must incorporate the standard NSCS Long Form provisions.

5.8 Non-Appropriation Clause

No contract may commit funds for a future fiscal year unless specific funding has been identified in a legislative appropriation bill or an appropriate cancellation clause has been inserted in the contract.

5.9 Independence and Conflict of Interest

- No College employee or Board member shall furnish or cause to be furnished any technical information or solicit proposals and/or prices or take any type of action, which would or could be construed to give a direct or indirect advantage or disadvantage to a potential bidder for a College project.
- No person shall attempt to influence in any way or participate or assume responsibility in the evaluation of proposals and selection of contractors when participation constitutes a conflict of interest.

- While an employee, as a prospective user, may informally seek information and confer with a vendor about services and product prices, negotiation for purchases of services and products must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included, along with other price documentation accompanying a purchase order, to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the conflict-of-interest requirements stated below when working with potential vendors.
- An employee, employee's family member, and/or business with which the employee is associated shall not enter into a College or System contract valued at two thousand dollars ($2,000) or more, in any one (1) year, unless the contract is awarded through an open and public process in compliance with Neb. Rev. Stat. §49-14,102.
- An employee should not be involved in an advisory or decision-making capacity relating to College or System purchases where the employee, employee's family member and/or business has a financial interest.
- If an employee, the employee's family or a business with which the employee is associated has a financial interest directly, or indirectly in a College or System purchase the Vice Chancellor for Finance & Administration must review information regarding the financial interest and approve the terms of the purchase and/or contract in advance.
- Employees or employees' family members may not receive or accept, either directly or indirectly, by rebate, gift, or otherwise, any money or other specific item of value whatsoever, or any promise, obligation or contract for future reward or compensation from any vendor, person, firm, corporation or other entity which is conducting business with the College or System.
- For purposes of this Policy, a direct or indirect financial interest does not include de minimis holdings or transactions that are unlikely to influence, or appear to influence, the employee's decision making. A financial interest shall be considered de minimis if: the value of the interest in a publicly traded entity does not exceed $5,000 in aggregate, including stock, stock options, or other ownership interests; and, the employee does not serve in a managerial, board, or executive capacity with the entity; and, the interest does not represent more than 1% ownership in the entity.

5.10 Threshold Adherence

In no case shall materials and services be divided or broken up to avoid required bidding.

5.11 Reporting to the Board

Contracts over one hundred fifty thousand dollars ($150,000) and all subsequent change orders, addenda, and amendments over fifty thousand dollars ($50,000) shall be reported to the Board.

5.12 Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder, if all other factors are equal.
- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service connected disability or a disability determination from the United States Department of Defense.
- The resident disabled veteran must own and control a business or, in the case of a publicly owned business, more than fifty percent (50%) of the stock must be owned by one (1) or more persons that meet the definition of a resident disabled veteran. The management and daily operations of the public business must also be controlled by one (1) or more persons meeting the definition of resident disabled veteran.

5.13 Work Eligibility Status

Contractors shall register and use a federal immigration system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

5.14 Payments

For construction contracts of $300,000 or more with phased payments and retainage requirements, the payment schedule shall be as follows.

- Every application of payment shall be based on a portion of the Contract sum, properly allocable to the completed portion of work and shall be reviewed and payment authorized by the architect/engineer. A retainage of five percent (5%) shall be kept until the project reaches substantial completion, except that ten percent (10%) retainage may be used on projects fully funded by the 309 Task Force for Building Renewal, and small projects, as determined by the College.

- When the project reaches final completion, the retainage will be paid in full.

## FORMS/APPENDICES:

None

### SOURCE:

| | | |
|---|---|---|
| **Legal Reference:** | Neb. Rev. Stat. 4-114 | Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties. |
| | Neb. Rev. Stat. 72-802 | Public buildings; plans and specifications; limitations; bids; appropriations; limits; exceptions; violation; penalty. |
| | Neb. Rev. Stat. 72-803 | Public buildings and grounds; construction; improvement and repair; contracts; bidding; procedure; exceptions. |
| | Neb. Rev. Stat. 73-102 | Fair labor standards; statement of compliance required. |
| | Neb. Rev. Stat. 73-107 | Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void. |
| | Neb. Rev. Stat. 81-1108.43 | Capital construction project; prohibited acts; exceptions; warrant; when issued. |
| | Neb. Rev. Stat. 81-1114 | Department of Administrative Services; building division; powers; duties, and responsibilities. |
| | Neb. Rev. Stat. 81-3449 | Practice of architecture; exempted activities. |
| | Neb. Rev. Stat. 81-3453 | Practice of engineering; exempted activities. |
| | Neb. Rev. Stat. 85-304 | Board of trustees; powers and duties; enumerated. |

**Policy Adopted:** March 1994

**Policy Revised:** August 1997, October 1997, September 2002, February 2004, September 2006, September 2007, September 2009, April 2010, June 2011, June 2015, November 2017, June 2019, November 2019, September 2021, February 2022, April 2022, June 2022, November 2022, April 2024, June 2025, November 2025, September 2026