

**CONTRACT FOR SERVICES
GUIDANCE AND INSTRUCTIONS**

Revised April 2019

TABLE OF CONTENTS

<u>Topic</u>	<u>Page</u>
What is a Contract?	3
Do I Need a Contract?	3
Contractor or Employee?	3
Conflict of Interest	4
Liability Insurance Considerations	5
Long Form or Short Form?	5
Modifications to Contract Forms	6
Arbitration	6
Indemnification	6
Statutory Requirements	7
Section-by-Section Notes– Long Form	7
Short Form Notes	10
Student Organization Contracts	10
Appendix List	13
Checklist to Determine Employee/Independent Contractor Status	14
Long Form Contract	15
Short Form Contract	20
Contract Review Checklist	23
Approvals Checklist	27
Guidelines for State Contracts Website Compliance	29
Student Organization Contract Example	31
W-9 and ACH Enrollment Form	34
United States Citizenship Attestation Form	35

CONTRACT FOR SERVICES

GUIDANCE AND INSTRUCTIONS

The following information is intended to assist each College with their contracts. We have provided a general overview of the terms and concepts in contracts as well as forms and checklists for your use. Following these guidelines will ensure that the interests of the College, faculty, and staff and ultimately, our students are protected.

What Is A Contract?

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.

Do I Need A Contract?

The Colleges should use a Contract for Services form (either the Nebraska State College System (NSCS) long form or the short form) to document agreements between the College and a party, *other than an employee*, who provides services to the College.

Pursuant to Board Policy 7015, you do NOT need a contract for the following when the purchase is below fifty-thousand dollars (\$50,000): lodging, airfare, advertising, and repairs for vehicles, equipment, furnishings, facilities/grounds, and information technology hardware & software systems.

NSCS employees must be paid through the payroll system, not through "accounts payable" as a contractor.

Board Policies. The Board Policies listed below provide more information for certain types of contracts and are available online for reference.

- 7015- Contracts; Limitations, Exemptions
- 7016- Contracts; Consulting Services
- 8064- Capital Construction; Bids
- 8065- Capital Construction; Contracts; Approvals
- 8066- Capital Construction; Contracts; Professional Consulting Services
- 8067- Capital Construction; Contracts; Works of Art
- 8068- Capital Construction; Contracts; Forms, Payments

How do I know if the party should be a Contractor or Employee? A Contract for Services is appropriate only when the contracting party will be treated as an independent contractor, rather than as an employee, under federal tax law. The determination is based on criteria established by the Internal Revenue Service: The parties' characterization of their relationship is not conclusive. Incorrectly treating a contracting party as an independent contractor can cause substantial federal tax problems for both the College and the Contractor. If the Contractor is an employee under

federal tax law, do NOT use the Contract for Services. Hire the Contractor as an employee through Human Resources. Paragraphs 1-5 below provide guidance to make the determination.

1. *Independent Business Entity.* If the Contractor is a corporation, limited liability company, partnership, or other business entity not affiliated with the College, then in most cases, the Contractor will be an independent contractor under federal tax law. See paragraph 2 below, if the business entity is affiliated with a current or former College employee.

2. *Affiliated Business Entity.* If (a) the business entity is owned or controlled by a current or former College employee, or (b) a substantial portion of the work under the contract is to be performed by a current or former College employee, the contractual relationship should be analyzed as though it were a contract directly with the current or former employee under paragraph 3 or 4 below.

3. *Current College Employee.* If the Contractor is currently a full-time or part-time College employee, do NOT use the Contract for Services form, even if the contracted work is entirely different from the employee's current duties. Consult with Human Resources about modifying the employee's existing employment contract.

4. *Former College Employee.* Under federal tax law, a former College employee who contracts with the College is likely to be deemed an employee, rather than an independent contractor, particularly if the work to be performed under the contract is similar to the former employee's prior duties at the College. In most cases, a proposed contract with a former employee should be referred to Human Resources with a request to hire the individual as a temporary employee under Board Policy 5010. A Contract for Services should not be used unless the Contractor is determined to be an independent contractor using the analysis in paragraph 5 below.

5. *Individual Contractor.* If the Contractor is an individual, use the checklist in the Appendix to evaluate whether the Contractor will be treated as an independent contractor or an employee. If the analysis using the checklist is inconclusive, hire the Contractor as an employee through Human Resources, and do NOT use the Contract for Services.

Conflict of Interest. Nebraska state statutes and Board policy restrict the award of contracts and other financial benefits to a College employee or a family member of a College employee. Under Board Policy 5002, "family member" includes spouse, child, parent, brother, sister, grandchild, or grandparent, by blood, marriage, or adoption.

Specifically, Board Policy 5002 provides:

No employee, employee's family member, or business with which the employee is associated shall enter into a contract valued at two thousand dollars (\$2,000) or more, in any one (1) year, with a governmental body unless the contract is awarded through an open and public process in compliance with Neb. Rev. Stat. §49-14,102.

No employee involved in an advisory or decision making capacity relating to College or System purchases and no employee's family member shall be financially interested, or have any beneficial personal interest, either directly or indirectly in such purchase or in any bidder, contractor, lessor, or vendor for such purchase.

Liability Insurance Considerations. The College maintains property insurance, liability insurance, and other types of insurance pertinent to its operation. State statutes and Board policies do not dictate any minimum insurance requirements for Contractors. The College should require adequate insurance from a Contractor as necessary to protect the College in the event of damage or injury during the Contractor's performance of the contract. The Long Form provides four (4) liability insurance options for the College to consider in a risk/benefit analysis when entering into a contractual relationship.

Situations exist in which it may be unreasonable to require the Contractor to fully insure for a project. For example, if the contract is for a small remodeling job in a multimillion dollar building, it may be impossible or cost-prohibitive for the Contractor to obtain sufficient insurance to replace the building in the event the Contractor accidentally burns it down. In situations like this, the College may decide to assume the risk to get the work done.

On the other hand, in some situations it is essential for the Contractor to provide insurance. One example is a dangerous activity such as a bungee jump or inflatable bounce house. The College's liability insurance specifically excludes "trampolines and rebound devices," so the College must require the Contractor to maintain insurance that protects both the Contractor and the College. If you have questions regarding the coverage provided by the College's liability insurance, the Vice President for Administration and Finance or the Vice Chancellor for Student Affairs and Risk Management will provide guidance.

Drafting the Contract

The NSCS has provided two (2) contract forms for your use: a long form and a short form. The NSCS forms are preferred whenever possible, however, if the contractor requires the use of a different/external form, the guidance and checklists provided in these instructions should be used to make changes that may be necessary for the contractor's form.

Do I use the Long Form or Short Form? It is always acceptable to use the Long Form Contract for Services when contracting with a non-employee. However, neither of these forms should be used for employment contracts.

The Short Form Contract for Services may be used when the Contractor is an individual providing a one-time service, services of a short duration, or occasional services, with payment in full upon completion. Some examples of circumstances in which the Short Form Contract for Services could be used are a guest lecturer, or a simple construction task (e.g., painting a room, pouring a concrete slab, or replacing a window or door).

The Short Form Contract for Services should also be used when the College will pay an honorarium or reimburse expenses to a volunteer. A documented contract is required to justify the payment. Current College employees are not eligible for honoraria. Any additional payment to a current employee must be reflected in a modification to the employee's existing employment contract or a request for reimbursement of employee expenses.

The Long Form Contract for Services must be used if (a) the Contractor's performance of the Contract will require the use of other people, such as contractor employees or subcontractors; (b) the work is complex or will require substantial time to complete, such as a typical construction or remodeling project; (c) the provisions for payment are unusual, such as an advance payment for purchase of materials or a progress payment schedule based on milestones; or, (d) the College will require the Contractor to maintain liability insurance coverage for the protection of the College.

Modifications to Contract Forms. The College should complete the Contract for Services by adding information where required. Detailed notes and instructions are provided on the following pages. If necessary, an addendum can be created to add contract terms. Appendices can also be added/attached to the Contract form. Any time an appendix is added, the Contract form must specifically note that the appendix "is attached and is incorporated by reference into the contract." Appendices to a contract can include a scope of work, a response to a request for proposal or other documents that provide further detail regarding the services to be provided or the terms of payment.

As a general rule, provisions should not be deleted from the Contract for Services form. Proposed deletions may be discussed with the General Counsel.

If at all possible, use the appropriate NSCS Contract for Services form. The use of a Contractor's form will require the addition of numerous provisions to comply with the restrictions that apply to the NSCS. Please refer to the *Contract Review Checklist* for the review of contracts for specific provisions.

Arbitration. Arbitration is a relatively streamlined procedure under which a dispute is submitted to an arbitrator (usually an expert in the field that is the subject matter of the contract), and the parties agree to abide by the arbitrator's decision. By agreeing to arbitration, the College gives up recourse to the court system. As a general matter, governmental agencies fare better in court than in arbitration. It is in the College's interest to resist the inclusion of arbitration clauses in contracts.

Indemnification. Contractors frequently seek to include so-called "hold harmless," limitation of liability, or indemnification clauses in contracts. These clauses attempt to transfer liability from the contractor to the College. Do not offer to indemnify the Contractor, and always resist the addition of indemnification language. When presented with proposed indemnification language, the best response is, "Under our contract, each party is responsible for its own performance. If there is litigation, the court will determine who is liable." The Contractor may be able to purchase insurance to cover a risk the Contractor is uncomfortable taking. If the Contractor insists on indemnification, the Contract should include mutual indemnification provisions (each party will indemnify the other).

Statutory Requirements. The Nebraska Public Records statutes (Neb. Rev. Stat. §§84-712 through 84-712.09) provide citizens and other interested persons the right to obtain access to, and copies of, public records in the custody of the Nebraska State Colleges. Service contracts are public records.

In addition to being subject to public disclosure under the Nebraska Public Record statutes, most contracts that expend state funds are subject to Neb. Rev. Stat. §84-602.02 which requires contract information be included in a public, searchable database. The public website provides access to a copy of the full contract including any amendments and all documents incorporated by reference in the contract. Limited information, such as social security numbers, federal tax identification numbers, and signatures will be redacted.

The Prompt Payment Act applies to the NSCS under Neb. Rev. Stat. §81-2402.

Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§13-1801 to 13-827 may also be applicable to contracts between two public entities.

Other statutes may apply. If you have any questions regarding the statutory obligations relating to contracts, please contact the General Counsel.

Section-by-Section Notes– Long Form Contract

A copy of the Long Form Contract is included in the Appendix. The following instructions are intended to assist you in completing the form, but do not take the place of a complete review. Please contact the General Counsel, if you have questions regarding the contract necessary for your particular circumstance.

Parties. Insert College name. Insert Contractor name and organizational form (“an individual,” “a Nebraska corporation,” etc.) If the College does not have a Form W-9 on file, the Contractor should complete a Form W-9, a copy of which is included in the Appendix. A form is also available on the DAS website, however, it is a dual form that includes ACH enrollment information. Due to the fact that the W-9 is uploaded into SAP, the Colleges should not use a combined form, but should instead complete a separate W-9.

If the Contractor is another governmental agency, the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§13-801 to 13-827, includes specific requirements that must be met. Interlocal agreements must be reviewed by the General Counsel and must always be approved by the Board of Trustees.

Section 1. Effective Date. Please note a beginning date and an ending date. The Contract is enforceable when it is signed by all parties. No work should be done under the Contract until it has been signed by all parties. If Board approval is required, the Contract cannot be signed and work cannot be performed until Board approval has been obtained.

Section 2. Services. Describe in detail the services to be provided by the Contractor (*be sure to include all elements addressing “who, what, when, where and how”*). If the description refers to an attachment, be sure to include the attachment and language incorporating the attachment by

reference (e.g., “the provisions of which are incorporated by reference”). If the attachment is an existing document, it is advisable to import an electronic version of the existing document to the end of the Contract form. It is far better to attach a referenced document than to refer to an unattached document that may be difficult to find or reproduce if a dispute arises.

Section 3. Consideration. Include the amounts and times of payment from the College to the Contractor. If the College will pay or reimburse expenses, the Contract should include specific descriptions (for example, travel, meals, or mileage) and maximum amounts of the expenses to be paid or reimbursed. If the Contract is for more than twenty-five thousand dollars (\$25,000), or if multiple payments will be made to the Contractor during a year, payment will be made by electronic transfer (ACH). ACH payment is optional for other contracts. To establish an electronic payment process, the College must complete the State of Nebraska ACH Enrollment Form, available in fillable form at <http://das.nebraska.gov/accounting/forms/forms.htm>. A copy of the ACH Enrollment Form is also included in the Appendix.

Section 4. Prompt Payment Act. The Prompt Payment Act applies to the NSCS under Neb. Rev. Stat. §81-2402.

Section 5. Independent Contractor and Liability Insurance. See the general discussion above under “Contractor or Employee?” and refer to the *Checklist to Determine Employee/Contractor Status*. This section also includes the options related to liability insurance. If you are uncertain as to which option you should choose, please contact your Vice President for Administration and Finance or the Vice Chancellor for Student Affairs & Risk Management. Also, if you are requiring that the Contractor provide insurance related to the Contract, make sure you receive the certificate of insurance referenced in this section. If the College is required to provide a certificate of insurance, please contact Vice Chancellor for Student Affairs & Risk Management in the System Office to make that request.

Section 6. Access to Records. The funding federal agency and the Comptroller General will have access to the Contractor’s records under this section, only if the Contract is for the expenditure of federal funds. In addition to the specific provisions of this section, the Contract and attachments (with narrow exceptions) are public records under Neb. Rev. Stat. §§84-712 to 84-713. The Nebraska Auditor of Public Accounts has broad authority to review State College contracts under Neb. Rev. Stat. §§84-304 to 84-315.

Section 7. New Employee Work Eligibility Status. State statute requires this provision for all State contracts for services physically performed within the state. See Neb. Rev. Stat. §§4-106 to 4-114. It is non-negotiable, and the language cannot be changed. If the Contractor is an individual or a sole proprietorship, the Contractor must complete the Department of Administrative Services United States Citizenship Attestation Form, available at http://das.nebraska.gov/lb403/attestation_form.pdf. A copy of the United States Citizenship Attestation Form is included in the Appendix.

Section 8. Non-Discrimination. Self-explanatory.

Section 9. ADA & Drug-Free Workplace Requirements. This provision is based upon federal law and applies to all Contracts and Contractors within the United States.

Section 10. Debarment/Suspension Certification. Applies only in the limited circumstances stated. Because the language is conditional, the paragraph does not need to be removed when it does not apply.

Section 11. Use of Information; Property Ownership. This section has two purposes – to prevent the Contractor from using the College’s information outside of the scope of its duties under the Contract, and to avoid future disputes about the ownership of property created under the contract. The assignment of copyright is especially important to make sure the College has unrestricted rights to use the Contractor’s work product.

Section 12. Parties; Subcontractors; Assignment. Self-explanatory.

Section 13. Cancellation. If the Contractor cancels, the College will only pay for completed work. If the College cancels, the College will pay for completed work and work in progress.

Section 14. Default; Remedies. Self-explanatory.

Section 15. Unavailability of Funding. Board Policy 7015 requires this provision in Contracts that extend beyond the current fiscal year.

Section 16. Complete Agreement; Governing Law; Amendment. Contractors often ask to change the state whose law will govern. As an agency of the State of Nebraska, it is difficult for the State Colleges to consent to the jurisdiction of another state, to become familiar with that state’s law, and to pursue or defend litigation in the other state. Do NOT change the state in the Contract for Services form, and if a Contractor submits a form that specifies another state’s law will apply, change it to Nebraska, whenever possible.

After the Contract is in effect, a change in circumstances, facts, or conditions that affects performance of the Contract may require an amendment to the Contract. The amendment can be made using the Contract for Services form. It is the responsibility of the designated College representative to monitor the parties’ performance under the Contract and to make sure the Contract amendment is approved and signed by the Board, Chancellor or President, as appropriate.

Section 17. Technology Access. Self-explanatory.

Section 18. Confidentiality and Privacy. This section addresses the legal confidentiality and privacy requirements associated with Contracts whereby the Contractor is provided with user data from the College.

Section 19. Designated College Representative. Add name and contact information for designated College representative responsible for implementation, monitoring and oversight of the contract. The designated College representative must also be identified in the Board of Trustees materials. The designated College representative can be an administrator, faculty member or professional staff member. Support staff may not be designated as a College Representative.

Section 20. Party Signatures. The Contractor should typically sign the document first. Refer to Board Policy 7015 to see who is authorized to sign the Contract for the College.

For College Office Use Only. This area allows a space for the College to note the appropriate budget code related to the contract.

Short Form Notes

A copy of the Short Form Contract is included in the Appendix. The following instructions are intended to assist you in completing the form but do not take the place of a complete review. Please contact the General Counsel, if you have questions regarding the contract necessary for your particular circumstance.

Contract Terms.

Insert College name. Insert Contractor name and organizational form (“an individual,” “a Nebraska corporation,” etc.). If the College does not have a Form W-9 on file, the Contractor should complete a Form W-9, a copy of which is included in the Appendix. The form is also available on the DAS website; however, it is a dual form that includes ACH enrollment information. Due to the fact that the W-9 is uploaded into SAP, the Colleges should not use a combined form, but should instead complete a separate W-9.

If the Contractor is another governmental agency, the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. §§13-801 to 13-827, includes specific requirements that must be met. Interlocal agreements must be reviewed by the General Counsel and must always be approved by the Board of Trustees.

Describe in detail the services to be provided by the Contractor (*be sure to include all elements addressing “who, what, when, where and how”*). If the description refers to an attachment, be sure to include the attachment and language incorporating the attachment by reference (e.g., “the provisions of which are incorporated by reference”). If the attachment is an existing document, it is advisable to import an electronic version of the existing document to the end of the Contract form. It is far better to attach a referenced document than to refer to an unattached document that may be difficult to find or reproduce if a dispute arises.

If the Contract is for more than \$25,000, or if multiple payments will be made to the Contractor during a year, payment will be made by electronic transfer (ACH). To establish an electronic payment process, the College must complete the State of Nebraska ACH Enrollment Form, available in fillable form at <http://das.nebraska.gov/accounting/forms/forms.htm>. A copy of the ACH Enrollment Form is also included in the Appendix.

If the College will pay or reimburse expenses (for example, travel, meals, or mileage), the Contract should include specific descriptions and maximum amounts of the expenses to be paid or reimbursed.

New Employee Work Eligibility Status. State statute requires that all State contracts for services physically performed within the state include the new employee work eligibility status provision set forth in the second through seventh paragraphs. See Neb. Rev. Stat. §§4-106 to 4-114. It is non-negotiable, and the language cannot be changed. If the Contractor is an individual or a sole proprietorship, the Contractor must complete the Department of Administrative Services United States Citizenship Attestation Form, available at http://das.nebraska.gov/lb403/attestation_form.pdf. A copy of the United States Citizenship Attestation Form is included in the Appendix.

Non-Discrimination. Self-explanatory.

ADA & Drug-Free Workplace Requirements. This provision is based upon federal law and applies to all contracts and contractors within the United States.

Technology Access. Self-explanatory.

Confidentiality and Privacy. This section addresses the legal confidentiality and privacy requirements associated with Contracts whereby the Contractor is provided with user data from the College.

Designated College Representative. Add name and contact information for the designated College representative responsible for administering and monitoring the Contract. The designated College representative must also be identified in the Board of Trustees materials. The designated College representative can be an administrator, faculty member or professional staff member. Support staff may not be designated as a College Representative.

Signatures. The Contractor should typically sign the document first. Refer to Board Policy 7015 to see who is authorized to sign the Contract for the College.

For College Office Use Only. This area allows a space for the College to note the appropriate budget code related to the Contract.

Student Organization Contracts

Under Board Policy 3300, “Student organizations wishing to enter into agreements or contracts with persons, corporations or organizations, external to the College community, must have approval by the College’s Vice President for Administration and Finance, or his or her designee, prior to entering into such an agreement or contract in order to ensure that the contract does not create inappropriate or unanticipated liability for the College and the Board of Trustees.”

Because student organizations will often use College facilities and their activities will be associated with the College in the public perception, the College’s review of student organization contracts may extend beyond a narrow legal definition of “liability.” The individual signing the contract on behalf of the student organization must be nineteen (19) years of age or older. Student Organization Contracts cannot be signed by College faculty or staff.

Contracts proposed by student organizations should be reviewed for the following:

Funding. What is the source of payment the student organization expects to use? If the plan is to sell tickets or merchandise to cover the cost of an event, does the student organization have a backup source of funds to meet its obligations under the Contract in the event sales are insufficient?

Risks to the Public. Does the student organization or contractor carry adequate insurance to cover common or foreseeable risks of the activity? Will the student organization and the College be designated as “additional insureds” on the Contractor’s policy? The College’s insurance will cover some risks, such as the risk of someone being injured because of a dangerous condition in a College building. In other cases, such as rebound devices and trampolines, the College’s insurance policies do not cover the risk.

Risks to the College. Does the activity put participants, onlookers, other people, or College property in unreasonable danger? Will the activity cast an unfavorable light on the reputation of the College? (If this is a concern, it should be discussed with the Vice President for Student Affairs.) Does the Contract attempt to make the College a financial guarantor for the student organization? Will the Contract require extraordinary or overtime work of College personnel or otherwise strain the resources of the College?

Scheduling. Does the activity conflict with academic or College-sponsored activities? Will the activity disrupt the reasonable expectations of others in the community (e.g., excessive noise during classes or late at night)?

Liability Insurance Considerations for Student Organizations. Student Organizations should require adequate insurance from a Contractor, as necessary, to protect the Student Organization (and the College if the services are held on the College’s campus) in the event of damage or injury during the Contractor’s performance of the Contract. The Student Organization should evaluate any insurance policy it has in relation to the Contract. The College maintains property insurance, liability insurance, and other types of insurance pertinent to its operation; however, the College’s insurance coverage does not extend to Student Organizations. Student Organizations should conduct business with that understanding. The Student Organization Contract for Services examples provide four (4) liability insurance options for Student Organizations to consider in a risk/benefit analysis when entering into a contractual relationship.

Situations exist in which it may be unreasonable to require the Contractor to fully insure for a contract for services. For example, if the Contract is for a speaking engagement in a multimillion dollar College building, it may be impossible or cost-prohibitive for the Contractor to obtain sufficient insurance to replace the building in the event the Contractor accidentally burns it down. In situations like this, the College may decide to assume the risk in order to allow for the Student Organization’s service/event.

On the other hand, in some situations it is essential for the Contractor to provide insurance. One example is a dangerous activity such as a bungee jump or inflatable bounce house. Liability insurance policies often specifically exclude “trampolines and rebound devices,” so the Student Organization must require the Contractor to maintain insurance that protects both the Student Organization and the College (if service is on the College’s campus). If you have questions

regarding the level of liability insurance that should be required of Contractors, contact the Vice President for Administration and Finance for additional guidance.

APPENDIX LIST

1. Checklist to Determine Employee/Independent Contractor Status
2. Long Form Contract
3. Short Form Contract
4. Contract Review Checklist
5. Approvals Checklist
6. Guidelines for State Contracts Website Compliance
7. Student Organization Contract Example
8. W-9 and ACH Enrollment Form
9. United States Citizenship Attestation Form

Checklist to Determine Employee/Independent Contractor Status

1. Is the Contractor a current employee of the College? Yes No
2. During the past two (2) years, did the Contractor provide similar services to the College as a full or part-time employee? Yes No
3. Does the Contractor work exclusively for the College (versus operating a trade or business that offers services to the general public)? Yes No
4. Will the College be providing specific direction to the Contractor as to when, where, and how the work is to be done? Yes No
5. Will the College be requiring the Contractor to undergo specific training? Yes No
6. Will the College be directing to whom the Contractor is assigning specific tasks or be involved in the hiring, supervision or direct payment of the Contractor's workers? Yes No
7. Will the College require that the Contractor work specific days or hours (like an employee) rather than allowing the Contractor to establish the work schedule? Yes No
8. Will the College provide all of the tools, equipment, and supplies that the Contractor will use in performing the work? Yes No

Answering "Yes" to any of the questions above indicates the Contractor may be considered an employee, rather than an independent contractor, and you should consult with your Vice President for Administration and Finance or the General Counsel as to whether the Contractor should be hired as a temporary employee under Board Policy 5010, and the Contract for Services should not be used.

Note: Contracts for Services are public records which are generally subject to statutory public disclosure and public website posting requirements.

CONTRACT FOR SERVICES

(Long Form)

Board of Trustees of the Nebraska State Colleges
Chadron State, Peru State, and Wayne State Colleges

This Contract is made by and between the Board of Trustees of the Nebraska State Colleges doing business as _____ State College (the "College"), and _____, a _____ (the "Contractor")

The Contractor and the College agree as follows:

1. **Effective Date.** This Contract shall be in effect from _____ to _____.
2. **Services.** The Contractor agrees to provide the following services to the College:

The Contractor agrees the contract work shall not be performed on time that is paid for by any public funds other than those provided by the College under this Contract.

3. **Consideration.** For the services described above, the College agrees to pay the Contractor:

Where provision is made for travel expenses, the expenses shall not exceed those allowed employees of the Nebraska State College System unless otherwise specifically provided herein.

4. **Prompt Payment Act.** In the event any amount due under this Contract remains unpaid for forty-five (45) days after the due date, the unpaid amount shall bear interest from the 31st day after the due date at the rate specified in the Prompt Payment Act, Neb. Rev. Stat. §§81-2401 to 81-2408.

5. **Independent Contractor.** The Contractor shall be an independent contractor and not a College employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, any Nebraska revenue and taxation law, Nebraska workers' compensation law and Nebraska unemployment insurance law.

The Contractor agrees that it is a separate and independent enterprise from the College, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it shall utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any partnership, joint venture, or joint employment relationship between the Contractor and the College, and the College shall not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages or overtime premiums. If the Contractor has employees or subcontractors, the Contractor further agrees to maintain at least the prescribed minimum workers' compensation insurance coverage for all of the Contractor's employees for the duration of this

Contract. The Contractor agrees to furnish the College proof of workers' compensation insurance coverage upon request.

Liability Insurance Requirements - **One box below must be selected and marked.**

- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence with a five million dollar (\$5,000,000) umbrella. The Contractor's insurance policy shall be primary and non-contributory. The College shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the College. A copy of the certificate shall be provided to the College.
- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence with a three million dollar (\$3,000,000) umbrella. The Contractor's insurance policy shall be primary and non-contributory. The College shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the College. A copy of the certificate shall be provided to the College.
- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence. The Contractor's insurance policy shall be primary and non-contributory. The College shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the College. A copy of the certificate shall be provided to the College.
- The Contractor is not required to carry liability insurance as a condition of this Contract.

6. **Access to Records**. The Contractor agrees to maintain complete records regarding the expenditures of funds provided by the College under this Contract. The Contractor agrees to allow authorized representatives of the College, the Board, the funding Federal Agency, if any, and the United States Comptroller General, if appropriate, free access at reasonable times to all records generated or maintained as a result of this Contract for a period of three (3) years after the termination of this Contract.

7. **New Employee Work Eligibility Status**. - **One box below must be selected and marked.**

- Employee Work Eligibility Status**. The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- The Contractor is an individual or sole proprietorship. The Contractor must complete the "United States Citizenship Attestation Form," available on the Department of Administrative Services website at http://das.nebraska.gov/lb403/attestation_form.pdf. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide US Citizenship and Immigration Services (USCIS) documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. *The attestation form and USCIS documents (if applicable) must be attached to the Contract.*

The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

8. **Non-Discrimination.** 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 in that there shall be no discrimination against any employee who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, disability, sex, sexual orientation, or gender identity. This provision shall include, but not be limited to employment, promotion, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor further agrees to insert a similar provision in all subcontracts for services allowed under this Contract.

9. **ADA & Drug-Free Workplace Requirements.** All provisions of this Contract are subject to the Americans with Disabilities Act (ADA). Further, the Contractor certifies that the Contractor operates a drug-free workplace and, during the term of this Contract, will be in compliance with the provisions of the Drug-Free Workplace Act of 1988.

10. **Debarment/Suspension Certification.** If this Contract involves the expenditure of federal funds in the amount of twenty-five thousand dollars (\$25,000) or more, the Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

11. **Use of Information; Property Ownership.** The Contractor agrees that any and all information gathered in the performance of this Contract, either independently or through the College or the State College System, shall be held in the strictest confidence and shall be released to no one other than to the College, without prior written authorization of the College. The Contractor agrees that no authority or information gained through the existence of this Contract will be used to obtain financial gain for the Contractor, for any member of the Contractor's immediate family, or for any business with which the Contractor is associated except to the extent provided by this Contract.

The Contractor further agrees that any tangible or intangible property, including patents, trademarks and other intellectual property, produced, developed, prepared, or created under the terms of this Contract shall be the property of the College. The Contractor hereby assigns and transfers to the College all right, title and interest in and to any copyright in any copyrightable materials produced under this Contract.

12. **Parties; Subcontractors; Assignment.** References to the Contractor and the College include the parties' officers, employees, agents, and independent contractors and subcontractors. The Contractor agrees that no subcontractors shall be utilized in the performance of this Contract without the prior written authorization of the College. The Contractor agrees not to assign or transfer any interest, rights, or duties in this Contract to any person, firm, or corporation without prior written consent of the College.

13. **Cancellation.** This Contract may be canceled by either party upon thirty (30) days' written notice. Settlement of the amount due to the Contractor upon cancellation shall be negotiated between the parties based upon (a) specified deliverables completed by the Contractor and accepted and usable by the College as of the date of termination when the Contractor initiates termination, or (b) the percentage of services performed by the Contractor as of the date of termination when the College initiates termination.

14. **Default; Remedies.** If the Contractor defaults in its obligations under this Contract, the College may, at its discretion, exercise any remedy available by law or in equity. In addition to any other available remedy, the College may terminate this Contract immediately by written notice to the Contractor. The College shall pay the Contractor only for such performance as has been properly completed and is of use to the College. The College may, at its discretion, contract for provision of the services required to complete this Contract and hold the Contractor liable for all expenses incurred in such additional contract over and above the consideration set forth in Paragraph 3.

15. **Unavailability of Funding.** Due to possible future reductions in state and/or federal appropriations, the College cannot guarantee the continued availability of funding for this Contract beyond the current fiscal year. In the event funds to finance this Contract become unavailable either in full or in part due to reductions in appropriations for a future fiscal year, the College may terminate the Contract or reduce the consideration by notice

in writing to the Contractor. The notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The College shall be the final authority as to the availability of funds. The effective date of Contract termination or reduction in consideration shall be the actual effective date of the elimination or reduction of appropriations. In the event of a reduction in consideration, the Contractor may cancel this Contract as of the effective date of the proposed reduction by written notice to the College.

16. **Complete Agreement: Governing Law: Amendment.** This Contract sets forth the entire agreement of the parties and supersedes all prior negotiations, discussions, and proposals. There are no promises, understandings, or agreements of any kind pertaining to this Contract other than those stated herein. This Contract will be construed, interpreted, governed and enforced under the laws of the State of Nebraska. This Contract may be amended at any time in writing upon the agreement and signature of both parties.

17. **Technology Access.** All contracts, that include provisions of technology products, systems, and services, including data, voice, and video technologies, as well as information dissemination methods, shall comply with the Nebraska Technology Access Standards adopted pursuant to Neb. Rev. Stat. §73-205. These Standards are available for viewing on the Web at <http://nitc.nebraska.gov/standards/2-201.pdf> and are incorporated into this Contract as if fully set forth herein.

18. **Confidentiality.** Contractor acknowledges that performance under the terms of this Contract may involve receipt of user data from the College. Contractor will utilize user data from the College only in the furtherance of this Contract. Contractor will notify College within twenty-four (24) hours of becoming aware of any data breach of its systems which expose confidential College user data. Contractor will reimburse the College for any and all expenses incurred by the College as a result of a data breach of Contractor's systems.

If the user data consists of confidential student information protected by The Family Educational Rights and Privacy Act (FERPA) the Contractor agrees and acknowledges that Contractor is acting as an officer of the College for the purposes of this Contract as defined by Nebraska State College Board Policy 3650 (at the time of this writing available at: https://www.nscs.edu/directory_record/45/3650_student_records) and will take necessary steps to safeguard the confidential student information.

The Contractor further acknowledges the obligation and agrees to comply with the General Data Protection Regulation (GDPR) privacy laws in regard to the collection, processing, storage, security, management, transfer and erasure of user data.

19. **Designated College Representative.** The designated College representative for purposes of monitoring and oversight of this Contract is:

Typed or Printed Name

Telephone

Email Address

20. **Signatures.**

CONTRACTOR

Signature

Date

Title

Printed Name

COLLEGE

Signature

Date

Title

Printed Name

SYSTEM OFFICE

Signature

Date

Title

Printed Name

Note: Contracts for Services are public records which are generally subject to statutory public disclosure and public website posting requirements.

CONTRACT FOR SERVICES

(Short Form)

Board of Trustees of the Nebraska State Colleges
Chadron State, Peru State, and Wayne State Colleges

This Contract is made by and between the Board of Trustees of the Nebraska State Colleges doing business as _____ State College (the “College”), and _____, a _____ (the “Contractor”)

The parties agree that the Contractor will perform the following work for the College as described herein in exchange for the financial consideration set forth below.

Note: The Contractor shall be an independent contractor and not a College employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, any Nebraska revenue and taxation law, Nebraska workers’ compensation law and Nebraska unemployment insurance law.

Contract Terms.

Description of Services

Payment Amount

Payment Terms

Dates for Service Commencement and Completion

New Employee Work Eligibility Status. One box below must be selected and marked.

- Employee Work Eligibility Status.** The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

- The Contractor is an individual or sole proprietorship. The Contractor must complete the “United States Citizenship Attestation Form,” available on the Department of Administrative Services website at http://das.nebraska.gov/lb403/attestation_form.pdf. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide US Citizenship and Immigration Services (USCIS) documentation required to verify the Contractor’s lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. *The attestation form and USCIS documents (if applicable) must be attached to the Contract.*

The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

Prompt Payment Act. In the event any amount due under this Contract remains unpaid for forty-five (45) days after the due date, the unpaid amount shall bear interest from the 31st day after the due date at the rate specified in the Prompt Payment Act, Neb. Rev. Stat. §§81-2401 to 81-2408.

Non-Discrimination. 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 in that there shall be no discrimination against any employee who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, disability, sex, sexual orientation, or gender identity. This provision shall include, but not be limited to employment, promotion, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor further agrees to insert a similar provision in all subcontracts for services allowed under this Contract.

ADA & Drug-Free Workplace Requirements. All provisions of this Contract are subject to the Americans with Disabilities Act (ADA). Further, the Contractor certifies that the Contractor operates a drug-free workplace and, during the term of this Contract, will be in compliance with the provisions of the Drug-Free Workplace Act of 1988.

Technology Access. All contracts, that include provisions of technology products, systems, and services, including data, voice, and video technologies, as well as information dissemination methods, shall comply with the Nebraska Technology Access Standards adopted pursuant to Neb. Rev. Stat. §73-205. These Standards are available for viewing on the Web at <http://nrtc.nebraska.gov/standards/2-201.pdf> and are incorporated into this Contract as if fully set forth herein.

Confidentiality. Contractor acknowledges that performance under the terms of this Contract may involve receipt of user data from the College. Contractor will utilize user data from the College only in the furtherance of this Contract. Contractor will notify College within twenty-four (24) hours of becoming aware of any data breach of its systems which expose confidential College user data. Contractor will reimburse the College for any and all expenses incurred by the College as a result of a data breach of Contractor’s systems.

If the user data consists of confidential student information protected by The Family Educational Rights and Privacy Act (FERPA) the Contractor agrees and acknowledges that Contractor is acting as an officer of the College for the purposes of this Contract as defined by Nebraska State College Board Policy 3650 (at the time of this writing available at: https://www.nscs.edu/directory_record/45/3650_student_records) and will take necessary steps to safeguard the confidential student information.

The Contractor further acknowledges the obligation and agrees to comply with the General Data Protection Regulation (GDPR) privacy laws in regard to the collection, processing, storage, security, management, transfer and erasure of user data.

Designated College Representative. The designated College representative for purposes of monitoring and oversight of this Contract is:

Typed or Printed Name

Telephone

Email Address

Signatures:

CONTRACTOR

Signature

Date

Title

Printed Name

COLLEGE

Signature

Date

Title

Printed Name

SYSTEM OFFICE

Signature

Date

Title

Printed Name

Contract Review Checklist

If you are using a contract other than a form contract created by the System Office, please use this checklist to ensure key provisions are addressed. This checklist should not take the place of a thorough legal review.

Parties

- The College is identified in the Contract as “The Board of Trustees of the Nebraska State Colleges doing business as INSERT NAME OF COLLEGE”
- The Contractor is identified by its full name and organizational form (“an individual,” “a Nebraska corporation,” etc.)
- The Contract does NOT allow the Contractor to assign or transfer any interest, rights, or duties in the Contract to another without the College’s written permission.

Effective Date of Contract

- The beginning and ending dates of the Contract are clearly stated.

Services

- The Contract clearly states in detail the services to be performed and/or products to be delivered.
- If the Contract specifically references a detailed scope of work attached to the Contract, the Contract includes language referencing the attachment and incorporating its terms. (e.g. “A scope of work is attached as Appendix A, the provisions of which are incorporated by reference.”)

Payment

- The amounts and times for payments from the College to the Contractor are clearly stated.
- Contract contains the following language regarding Prompt Payment Act:
 - “In the event any amount due under this Contract remains unpaid for forty-five (45) days after the due date, the unpaid amount shall bear interest from the 31st day after the due date at the rate specified in the Prompt Payment Act, Neb. Rev. Stat. §§81-2401 to 81-2408.”
- If the Contract is for more than twenty-five thousand dollars (\$25,000) or if multiple payments will be made to the Contractor during a year, the Contract states that payment will be made by electronic transfer (ACH).

- If payment will be made by ACH, an ACH Enrollment Form has been completed by the Contractor and is attached to the Contract.

Liability and Insurance

- The Contract does NOT contain any language stating that the College will indemnify the Contractor or hold the Contractor harmless. If a party insists on indemnification, the Contract includes mutual indemnifications provisions (each party will indemnify the other).
- The Contract does NOT contain language requiring arbitration or mediation between the College and the Contractor in the event of a dispute. If a party is insisting on the inclusion of language requiring arbitration or mediation, contact the System Office prior to signing.
- The Contract clearly identifies the party responsible for having insurance to cover the activity or work at issue in the Contract.
- If the Contractor is providing the insurance, the Contractor is required to provide the College with a certificate of insurance.

Conflict of Interest

- If the Contract is valued at two thousand dollars (\$2,000) or more and was not awarded through an open and public process, NO employee, employee's family member, or business with which the employee is associated is a party to this Contract.
- NO employee involved in an advisory or decision making capacity relating to College or System purchases and no employee's family member is financially interested, or has any beneficial personal interest, either directly or indirectly in this Contract.

Other Required Provisions

- **New Employee Work Eligibility Status** – The Contract is for services to be physically performed within Nebraska and includes language either from a or b below.
 - a. **Employee Work Eligibility Status.** The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

- b. The Contractor is an individual or sole proprietorship. The Contractor must complete the “United States Citizenship Attestation Form,” available on the Department of Administrative Services website at http://das.nebraska.gov/lb403/attestation_form.pdf. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide US Citizenship and Immigration Services (USCIS) documentation required to verify the Contractor’s lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program. The attestation form and USCIS documents (if applicable) must be attached to the Contract.

The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the Contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

- **Non-Discrimination** - The Contract contains the following language related to non-discrimination:

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 in that there shall be no discrimination against any employee who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, disability, sex, sexual orientation, or gender identity. This provision shall include, but not be limited to employment, promotion, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor further agrees to insert a similar provision in all subcontracts for services allowed under this Contract.

- **ADA & Drug-Free Workplace Requirements** – The Contract contains the following or similar language related to the ADA & Drug-Free Workplace Requirements:

All provisions of this Contract are subject to the Americans with Disabilities Act (ADA). Further, the Contractor certifies that the Contractor operates a drug-free workplace and, during the term of this Contract, will be in compliance with the provisions of the Drug-Free Workplace Act of 1988.

Additional Documents for Contract

The following documents are included with the Contract:

- W-9 and ACH Enrollment Form
- United States Citizenship Attestation Form

Approvals Checklist

The following is a summary of the approvals required for various contracts. All contracts NOT requiring Board approval shall be signed by the President or the Vice President for Administration and Finance. In the event that the President and Vice President for Administration and Finance are not able to sign on behalf of their respective institution, the Chancellor is authorized to execute a contract on behalf of the institution.

Type of Contract	Board Approval	No Board Approval	Board Policy
Contracts, Memorandums of Understandings, or Agreements establishing collaborative, educational partnerships between the Colleges and external entities	X		7015
All contracts for capital construction projects	X		8063-8068
Any contract with individual students for room and board or deferred payment programs		X	7015
Any student internship, practicum or workforce training grant agreements.		X	7015
Any community service and service learning contracts.		X	7015
Any Northeast Nebraska Teacher Academy agreements (NENTA.)		X	7015
Any articulation agreements to determine course equivalencies in accordance with Board Policies.		X	7015
Any bus chartering contracts.		X	7015
Any contract for the purchase of food and consumable food service items used in the regular course of business operations.		X	7015
Any contract for the purchase of supplies and commodities used in the regular course of business operations		X	7015
Any contract for the purchase of installation services including repairs or maintenance agreements or movable equipment including computer hardware, and computer		X	7015

software services, licenses and maintenance agreements where the total cost does not exceed one hundred thousand dollars (\$100,000). In cases of multiple-year contracts, contract amendments, contract extensions, contract renewals, and contracts with optional years, the one hundred thousand dollar (\$100,000) limit only applies to any given one (1) year period as defined in the contract documents.			
Any contract for the purchase of utilities, gasoline, oil, or diesel fuel used in the regular course of business operations. Utilities shall include trash services, cable television and internet services		X	7015
Any contract dealing with the sale of College personal property, if Board Policy 7014 is followed. Any sale of real property, where the sale price does not exceed twenty-four thousand dollars (\$24,000).		X	7014; 7015
Any granting of a lease or rental agreement to an external party, if the annual proceeds are less than twenty-four thousand dollars (\$24,000) in accordance with Board Policy 8027.		X	7015; 8027
Any contract relating to the staging or performance of any cultural, artistic, musical, scholarly, recreational, or intercollegiate athletic event (at home or away).		X	7015
Any contract for the purchase of material to be added to the collection of any College library.		X	7015
Any contract that does not exceed twenty-four thousand dollars (\$24,000), whereby a College will provide services to an external party, including, but not limited to, instruction, consulting, planning, technical assistance or program development courses. (For contracts to receive services, refer to Board Policy 7016.)		X	7015; 7016
Any contract with the state or federal government for the provision of Financial Aid.		X	7015
Any contract associated with an emergency approved by the Chancellor.		X	7015

Guidelines for State Contracts Website Compliance

Contracts for Inclusion on the State Website:

All contracts (including grants, contracts and subcontracts) where payments flow through the State of Nebraska Treasury, with certain exceptions. *(Includes contracts from revenue bond operating budget.)*

Contracts where payments/funds do NOT go through the State of Nebraska Treasury, *as in revenue bond contingency maintenance project contracts and bonded construction projects for residence halls and student centers (funds paid by trustee).*

Contracts EXCLUDED from the State Website, per Neb. Rev. Stat.

§84-602.02:

NSCS contracts providing specific services or financial assistance to specifically named individuals or families.

Contracts of employment (**federal work study assumed excluded, as are benefits contracts**).

Contracts transferring funds between two agencies, boards, commissions, or departments of the state, or payments of state or federal assistance to an individual.

When scanning the Contract, DO NOT include any documents that are NOT part of the contract (e.g. background check forms, ACH Enrollment forms, W-9's, Citizenship Attestation forms, etc)

REDACTION ITEMS for the Contracts, per Neb. Rev. Stat. §84-602.02:

Prior to uploading the Contract into Ion Wave, *two (2)* people must review it to ensure that any of the following information contained in the Contract or any of the attachments or appendices have been redacted.

- Social Security numbers and Federal Tax ID numbers (individual or business).
- Protected health information (HIPAA).
- Any bank account or credit card numbers or bank routing information.
- Any information considered confidential per state or federal law, rule, or regulation.
- DAS is recommending that **signatures should be redacted**, but not the identities of persons signing the Contract.
- Any information or records that may be withheld from the public per Neb. Rev. Stat. §84-712.05. There is a lengthy list in Neb. Rev. Stat. §84-712.05, most of which should never be in a contract, including “**proprietary information**” (trade secrets, research work, and information advantageous to business competitors). There is a paragraph in

Neb. Rev. Stat. §84-712.05 that addresses security of public property and persons. We know other agencies are NOT placing **construction plans and specifications** on the DAS website, and that is our recommendation until the NSCS gets further direction from DAS on the matter. Also, it is important to redact any **computer or communications network information** (such as system diagrams) that can jeopardize the security of the systems.

STUDENT ORGANIZATION CONTRACT

(Example)

This Contract is made by and between _____
“_____ State College (_SC) Student Organization” and _____,
Choose an item., “Contractor”. The _SC Student Organization is recognized as a student organization by
_____ State College; however it is a separate legal entity with its own federal tax identification number.

The Contractor and the _SC Student Organization agree as follows:

1. **Effective Date.** This Contract shall be in effect from _____ to _____.
2. **Services.** The Contractor agrees to provide the following services to the _SC Student Organization:
3. **Consideration.** For the services described above, the _SC Student Organization agrees to pay the Contractor:
4. **Independent Contractor.** The Contractor shall be an independent contractor and not a _SC Student Organization employee for all purposes, including, but not limited to, the application of the Fair Labor Standards Act, minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, any Nebraska revenue and taxation law, Nebraska workers’ compensation law and Nebraska unemployment insurance law.

The Contractor agrees that it is a separate and independent enterprise from the _SC Student Organization, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it shall utilize a high level of skill necessary to perform the work. This Contract shall not be construed as creating any partnership, joint venture, or joint employment relationship between the Contractor and the _SC Student Organization, and the _SC Student Organization shall not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages or overtime premiums. If the Contractor has employees or subcontractors, the Contractor further agrees to maintain at least the prescribed minimum workers’ compensation insurance coverage for all of the Contractor’s employees for the duration of this Contract. The Contractor agrees to furnish the _SC Student Organization proof of workers’ compensation insurance coverage upon request.

Liability Insurance Requirements. - One box below must be selected and marked.

- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence with a five million dollar (\$5,000,000) umbrella. The Contractor’s insurance policy shall be primary and non-contributory. The _SC Student Organization shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the _SC Student Organization. A copy of the certificate shall be provided to the _SC Student Organization.
- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence with a three million dollar (\$3,000,000) umbrella. The Contractor’s insurance policy shall be primary and non-contributory. The _SC Student Organization shall be named as an additional insured party on the policy and the certificate of insurance shall reflect that the policy waives its right of subrogation against the _SC Student Organization. A copy of the certificate shall be provided to the _SC Student Organization.
- The Contractor is required to carry liability insurance in the amount of one million dollars (\$1,000,000) per occurrence. The Contractor’s insurance policy shall be primary and non-contributory. The _SC Student Organization shall be named as an additional insured party on the policy and the certificate of insurance

shall reflect that the policy waives its right of subrogation against the _SC Student Organization. A copy of the certificate shall be provided to the _SC Student Organization.

The Contractor is not required to carry liability insurance as a condition of this Contract.

5. **Non-Discrimination**. 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 in that there shall be no discrimination against any employee who is employed in the performance of this Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, disability, sex, sexual orientation, or gender identity. This provision shall include, but not be limited to employment, promotion, demotion, transfer, recruitment, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The Contractor further agrees to insert a similar provision in all subcontracts for services allowed under this Contract.

6. **ADA & Drug-Free Workplace Requirements**. All provisions of this Contract are subject to the Americans with Disabilities Act (ADA). Further, the Contractor certifies that the Contractor operates a drug-free workplace and, during the term of this Contract, will be in compliance with the provisions of the Drug-Free Workplace Act of 1988.

7. **Parties; Subcontractors; Assignment**. References to the Contractor and the _SC Student Organization include the parties' officers, employees, agents, and independent contractors and subcontractors. The Contractor agrees that no subcontractors shall be utilized in the performance of this Contract without the prior written authorization of the _SC Student Organization. The Contractor agrees not to assign or transfer any interest, rights, or duties in this Contract to any person, firm, or corporation without prior written consent of the _SC Student Organization.

8. **Cancellation**. This Contract may be canceled by either party upon thirty (30) days' written notice. Settlement of the amount due to the Contractor upon cancellation shall be negotiated between the parties based upon (a) specified deliverables completed by the Contractor and accepted and usable by the _SC Student Organization as of the date of termination when the Contractor initiates termination, or (b) the percentage of services performed by the Contractor as of the date of termination when the _SC Student Organization initiates termination.

9. **Default; Remedies**. If the Contractor defaults in its obligations under this Contract, the _SC Student Organization may, at its discretion, exercise any remedy available by law or in equity. In addition to any other available remedy, the _SC Student Organization may terminate this Contract immediately by written notice to the Contractor. The _SC Student Organization shall pay the Contractor only for such performance as has been properly completed and is of use to the _SC Student Organization. The _SC Student Organization may, at its discretion, contract for provision of the services required to complete this Contract and hold the Contractor liable for all expenses incurred in such additional contract over and above the consideration set forth in Paragraph 3.

10. **Complete Agreement; Governing Law; Amendment**. This Contract sets forth the entire agreement of the parties and supersedes all prior negotiations, discussions, and proposals. There are no promises, understandings, or agreements of any kind pertaining to this Contract other than those stated herein. This Contract will be construed, interpreted, governed and enforced under the laws of the State of Nebraska. This Contract may be amended at any time in writing upon the agreement and signature of both parties.

11. **Designated SC Student Organization Representative**. The designated _SC Student Organization representative for purposes of monitoring and oversight of this Contract is:

Typed or Printed Name

Telephone

Email Address

12. **Signatures.**

CONTRACTOR

Typed or Printed Name

Telephone

Email Address

Signature

Title

Date

SC STUDENT ORGANIZATION

Typed or Printed Name

Telephone

Email Address

Signature

Title

Date

For SC office use:

SC Vice President for Administration & Finance Review: _____

Source of Funding: Choose an item.,

If SC Student Activities Trust Funds, list budget code: _____

STATE OF NEBRASKA W-9 & ACH ENROLLMENT FORM

PLEASE SUBMIT FORM TO INVOICED AGENCY

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following boxes:

- Individual Sole proprietor C Corporation S Corporation Partnership Trust/Estate
 Non-Profit Entity Government (Local, State or Federal)
 Limited Liability Company. Enter the tax classification (C = C Corporation, S = S Corporation, P = Partnership) ____
 Other (see instructions) _____

Note: Enter the owner's name on line 1 and mark the appropriate federal tax classification box for disregarded entities.

4 Exemptions (see instructions): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____

5 Address: _____ Remit Address (if different): _____

6 City, state, and ZIP code _____ City, state, and ZIP code _____

Taxpayer Identification Number (TIN):

Social Security Number (SSN): _____ OR Employer Identification Number (EIN): _____

Certification:

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding due to failure to report interest and dividend income, and
3. I am a U.S. citizen or other U.S. person (defined in the instructions), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

For additional instructions please refer to <http://www.irs.gov/pub/irs-pdf/fw9.pdf> to obtain a copy of the IRS Form W-9 General Instructions.

Signature of US Person: _____ Date: _____

Printed Name: _____ Contact Phone: _____

Comments or Business/Entity Notes:

ACH Enrollment: (Rev. December 2014) Initial Setup Change Close Account

This information is REQUIRED to process ACH payments. Without this information, your payment may be delayed.

Financial Institution Name:	Nine Digit Routing Number:	Prior Routing Number: *	<input type="checkbox"/> Check here if the bank is outside of the United States.
Address:	Depositor Account Number:	Prior Account Number: *	<input type="checkbox"/> Check here if our payments to you are being forwarded from a U.S. financial institution to a financial institution in another country
City, state and ZIP code:	Type of Account: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	* Prior ACH instructions are required to be completed if changing/updating your ACH instructions with the State of Nebraska.	

This account will be used for all payments by the State of Nebraska unless specified here: _____

E-mail: _____

(Used for ACH payment notifications.)

Authorized Individual or Entity Signature:	Attachment Required! (Select and attach one of the following items for verification):
Printed Name:	<input type="checkbox"/> Blank check (voided) or <input type="checkbox"/> Photocopy of a cleared check
Title:	<input type="checkbox"/> Letter or statement from your financial institution
Date	<input type="checkbox"/> Vendor invoice or letter which contains printed ACH instructions

Internal Use Only:

United States Citizenship Attestation Form

For the purpose of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

<input type="checkbox"/> I am a citizen of the United States.
— OR —
<input type="checkbox"/> I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: _____, and I agree to provide a copy of my USCIS documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete, and accurate and I understand that this information may be used to verify my lawful presence in the United States.

PRINT NAME	_____
	<u>(first, middle, last)</u>
SIGNATURE	_____
DATE	_____