

# FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 1 of 6**

---

## BOARD POLICY

### Applicability

Board Policy 7010 applies to bidding and purchases of general items, supplies and ordinary services. Board Policy 7016 applies to contracts for legal counsel, auditor, lobbyists, search consultants, and other consultants and specialized services not associated with facilities or information technology in the 8000 series Board policies. Policy 8064 applies to construction, facilities and Information Technology (IT) related purchases and bidding, and includes facilities related purchases such as carpet/flooring & wall finishes, equipment, fixtures, furnishings, and window coverings even when their purchase is not associated with a capital construction project. The following four sections: **Emergency; Sole Source; Exceptions to Bidding Requirements; and Requests for Proposals (RFP)**, apply to both Board policies 7010 and 8064.

### Emergency

Emergency shall mean 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~~ **Technology Resource**, or (d) avoid, correct or repair a situation outside the control of the Colleges including detrimental negligence or acts of an employee, natural or manmade disasters, and security or data compromise.

Proposed emergency purchases shall be documented by the College unit or department, and submitted to the Vice President for Administration and Finance, for approval by the Chancellor. The Chancellor may also approve the suspension of bidding requirements as appropriate for each emergency.

### Sole Source

A sole source purchase is when there is only a single feasible or sole source for the supplies or services. A single feasible or sole source exists when:

- Supplies are proprietary and only available from the manufacturer or a single distributor.
- Additions to a system must be compatible with the original equipment or software.
- Factory authorized maintenance must be utilized in order to maintain validity of a warranty.
- Only one (1) type of computer software exists for a specific application.
- The software or materials are copyrighted and are only available from the publisher or a single distributor.
- The services of a particular provider are unique, e.g. entertainers, authors, etc.
- Based on current research, it is determined that only a single distributor services the region in which the supplies are needed.

Documentation to purchase based on sole source without competitive bids or proposals shall be documented by the College unit or department, and approved by the Vice President for Administration and Finance in consultation with either the Vice Chancellor for Facilities and Information Technology, or the Vice Chancellor for Finance and Administration.

# FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 2 of 6**

---

## **Exceptions to the Bidding Process**

Exceptions to the bidding process are defined as: emergency and sole source purchases with proper approval, advertising, software licensing renewals and software/hardware maintenance agreements, purchase from a previously competitively bid government or multi-state compact contract, including other state colleges and higher education institutions, or when the price has been established by the federal General Services Administration. Exceptions also include repairs of less than fifty thousand dollars (\$50,000) for vehicles, equipment, furnishings, Information Technology hardware/software/systems, and facilities/grounds. Repairs under \$50,000 require negotiation to assure quality work is performed at a reasonable price.

## **Requests for Proposals (RFP)**

A Request for Proposal (RFP) process includes a detailed description of the items/supplies/services/systems desired, but important factors other than cost are made part of the process and considered in the award of the contract. For the purpose of Board policies, an RFP can be considered a form of bidding, and may be used when formal or informal bidding is required. The exception to that is when a proposal is received through an RFP process for the purpose of selecting a design/construction consultant or contractor in Board policies 8066 and 8071. In such cases, the proposals are not considered "bids" since the final contract amount is derived through negotiations with the highest ranked firm.

The Board shall, within the limits prescribed by law, prepare specifications, advertise projects, evaluate and award all bids for capital construction projects and information technology related purchases in the System.

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.

## **FORMAL PROCEDURE**

**Construction projects and information technology related purchases exceeding one hundred thousand dollars (\$100,000) shall observe the following bidding procedures:**

1. Specifications: All specifications and plans for buildings to be renovated or constructed, are to be prepared by professional architects and/or engineers when required by state law. The specifications and plans shall be prepared in such a manner that the completed building, landscaping and parking facilities, including the cost of equipment and fixtures necessary for the project, or the completed renovation cost shall not exceed the amount authorized for that purpose. Specifications for information technology related purchases may be prepared by College ~~employed technicians~~information technology staff or hired consultants.
2. Advertising project: For construction, the public notice shall appear once a week for three (3) consecutive weeks in a publication based in or near the locality of the project and in other widely circulated publications as deemed necessary by 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. For information technology procurement, the College determines the most effective means of advertising and distributing the Request for Proposals (RFP).

# FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 3 of 6**

---

The notice or RFP shall include, at a minimum, the following information:

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

A copy of the advertisement shall be kept on file with the College responsible for placing the advertisement and will be made available to the System Office upon request.

3. Bid Opening for Construction: 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 are to be returned unopened. The bidder's envelope is to be attached to the back of the bid form. 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:

- a) Conformance with bidding instructions
- b) Use of proper bid forms
- c) Accompanied by bid bond or certified check (not applicable to information technology)
- d) Acknowledgment of any addendum
- e) Bid is signed

For information technology RFP's, proposal submissions generally follow the bid opening procedures above, except that electronic proposals may be accepted.

4. Bid Evaluation for Construction: 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 responsible 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 responsible bidder, in addition to price, the following elements shall be given consideration:

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

## **FACILITIES, NEBRASKA STATE COLLEGE SYSTEM**

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 4 of 6**

---

For information technology RFP's, proposal evaluation generally follows the construction bid evaluation procedures above, except that the contract is not necessarily awarded to the lowest cost proposal, but to the top ranked proposal based on the criteria outlined in the RFP.

When a public contract is to be awarded to the lowest responsible 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.

A capital construction or information technology contract may be conditioned upon later refinements in scope and price and may permit the College in agreement with the contractor to make changes in the project without invalidating the contract. Later refinements shall not exceed the scope of the program statement or available funding.

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. 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.

The contractor must specifically agree not to discriminate against any recipient of services on the basis of race, color, sex, religion, creed, age, marital status, physical or mental disability, political affiliation, national origin or ancestry, and not to discriminate against any employees or applicant for employment on the basis of race, color, sex, religion, creed, age, marital status, physical or mental disability, political affiliation, national origin or ancestry.

All contracts will contain equal opportunity statements to ensure compliance with Federal Government requirements associated with Title VI and Title VII of the Civil Rights Act of 1964, and other appropriate equal opportunity procurement policies.

The recommendation, bid tab sheet and other applicable materials shall be provided to the System Office for review. In the event that less than three (3) bids or proposals are received, the Vice Chancellor for Facilities and Information Technology may approve award of contract based on documentation received. Approval of less than three (3) bids only applies to the Formal Procedure.

For any construction project that has a total cost of more than one hundred thousand dollars (\$100,000), 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 100% of the contract sum, written by a Surety licensed to do business in the State of Nebraska.

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 Board always reserves the right to reject any or all bids.

### **INFORMAL PROCEDURE**

Construction projects and information technology related purchases with a total project cost between thirty thousand dollars (\$30,000) and one hundred thousand dollars (\$100,000) shall observe the following bidding procedure:

1. Three or more quotations for the project shall be solicited from responsible 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.
2. A fixed bid receipt date or public opening is not required.

## FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 5 of 6**

3. A formal contract shall be executed for the project after negotiating a price that is reasonable and within budget. The contract may be the System's short form, long form, or other form acceptable to the Vice Chancellor for Facilities and Information Technology

A capital construction or information technology purchase contract may be conditioned upon later refinements in scope and price and may permit the College in agreement with the contractor to make changes in the project without invalidating the contract. Later refinements shall not exceed the scope of the program statement or available funding.

4. All resulting quotations or refusals to quote shall be documented by the College for reference.
5. Information on these contracts shall be reported to the Board of Trustees at the first Board meeting following College acceptance of the contract.

### OPEN SOLICITATION

Construction projects and information technology related purchases with a total cost of less than thirty thousand dollars (\$30,000) shall follow the open solicitation process, as follows:

1. Competitive bidding is not required.
2. The College may contract directly with a responsible contractor after negotiating a contract price that is reasonable and within budget.
3. A capital construction or information technology purchase contract may be conditioned upon later refinements in scope and price and may permit the College in agreement with the contractor to make changes in the project without invalidating the contract. Later refinements shall not exceed the scope of the program statement or available funding.

### INFORMATION TECHNOLOGY (IT) PURCHASING

Security of data, and ~~College IT systems infrastructure~~ requirements for NSCS Technology Resources, need to be considered when ~~College departments or units~~ NSCS employees make IT purchases. In accordance with Standard 10: Technology Resources Acquisition, from the NSCS Information Security Program in Board Policy 7003, Purchases should be coordinated with the College IT department employees must consult with the applicable Chief Information Officer (CIO) or System Office Information Security Officer (SOISO) 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, physical facilities related to such systems, and contractual relationships with vendors of such systems and services when the purchases involve hardware or software to be installed on premise, consulting or professional service engagements which will require IT integration or services, and Cloud services which will, at any time during the contract, be used to store or handle data that is: 1) PII Personally Identifiable Information beyond the scope of the user requesting the service, 2) FERPA protected, 3) requires Institutional Research Board (IRB) approval, or is 4) non-public institutional data.

## FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

**POLICY: 8064 Capital Construction and Information  
Technology (IT); Bids**

**Page 6 of 6**

---

Legal Reference:	RRS 72-802	Public buildings; plans and specifications; limitations; bids; appropriations; limits
	RRS 72-803	Public buildings; construction; improvement and repair; contracts; bidding; procedure; exceptions
	RRS 73-101.01	Public lettings; resident bidder; defined; preference
	RRS 73-102	Fair Labor Standards, statement of compliance required.
	RRS 81-1108.43	Capital construction project; prohibited acts; exceptions; warrant; when issues
	RRS 81-1114	Department of Administrative Services; building division; powers, duties, and responsibilities
	RRS 85-304	Board of Trustees; powers; enumerated
	RRS 81-3449	Practice of architecture; exempted activities
	RRS 81-3453	Practice of engineering; exempted activities

Policy Adopted: 3/11/94  
Policy Revised: 8/29/97  
Policy Revised: 10/29/97  
Policy Revised: 9/10/02  
Policy Revised: 2/12/04  
Policy Revised: 9/15/06  
Policy Revised: 9/14/07  
Policy Revised: 9/11/09  
Policy Revised: 4/22/10  
Policy Revised: 6/2/11  
Policy Revised: 6/18/15  
Policy Revised: 11/17/17  
Policy Revised: 6/18/19