

ITEMS FOR DISCUSSION AND ACTION\ACADEMIC AND PERSONNEL

July 24, 2020

***ACTION:* First and Final Round Approval of Revisions to Board Policy 7015; Contracts; Limitations, Exemptions**

Board of Trustees Policy 7015 Contracts; Limitations, Exemptions provides contract guidance for the System. While an extensive list of "Exempt Contracts" is included in the policy, questions continue to surface regarding those contracts or formal agreements that need to be approved by the Board of Trustees, or require review by the Chancellor. The addition to Policy 7015 seeks to clarify that agreements with vendors or partners for international travel constitute a contract with the College and shall require Board of Trustees approval. However, engaging with vendors or partners to establish an "intent to travel" may be approved by the Chancellor.

The System Office recommends approval of the Revisions to Board Policy 7015; Contracts; Limitations, Exemptions.

ATTACHMENTS:

- Revisions to Board Policy 7015 (PDF)

BUSINESS MANAGEMENT, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 7015

Contracts; Limitations, Exemptions

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BOARD POLICY

Contracts Guidance

A contract is necessary whenever a legal relationship is established consisting of rights and duties that go beyond the sale transaction details. Thus, a contract is NOT required when there are no terms beyond the documentation of purchase details, such as 1) definition of items/scope, 2) delivery of the items/services, and 3) the timing of billing and payment.

The following purchases do NOT require a contract when the purchase is below fifty-thousand dollars (\$50,000): lodging, airfare, advertising, and repairs for vehicles, equipment, furnishings, facilities/grounds, and Information Technology products and services.

College departments and units are responsible for negotiating contracts prior to submission to the appropriate Vice President. The Vice President for Administration and Finance is primarily responsible for signing College contracts, however, the Vice President for Academic Affairs may also sign contracts of an academic nature including, but not limited to Academic Collaborations, Partnerships and Affiliations; Academic Transfer or Articulation Agreements; Academic Camps; Community Service and Service Learning; International Travel; Library Collections; NENTA; Academic Events, Speakers or Activities; and, Work-based learning experiences, such as an internship, practicum, clinical placement, student teaching etc.

The NSCS standard contract forms are to be used for the initial review draft. (See “*Contract for Services Guidance and Instructions*” found at www.nscs.edu.) In cases where there are no alternatives to using vendor contract forms, the applicable provisions of the appropriate NSCS form need to be incorporated into the initial review draft. If an online user agreement (sometimes referred to as a “click-through agreement”) is required for a purchase, the terms and conditions are to be reviewed by the College department or unit prior to review and approval by the appropriate Vice President. Refer to the first two paragraphs above for when online user agreements are considered contracts.

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

No contract, purchase agreement or lease/purchase agreement, that requires Board approval, shall be signed or finalized in any form until the Board has authorized the College to enter into such an understanding.

Contracts, Memorandums of Understandings, or Agreements establishing collaborative, educational partnerships between the Colleges and external entities must be approved in advance by the Board and signed by the Chancellor. Contracts that are solely for the purpose of exploring the potential for future substantive contracts do not require approval of the Board and shall be signed by the President or the Vice President for Academic Affairs. Contracts related to international study abroad trips are considered educational partnerships and must be approved in advance by the Board. Contracts that declare an intent to travel in the future may be signed by the Chancellor without Board approval.

All contracts for capital construction projects must follow the criteria stipulated in Policies 8063 through 8068.

All contracts related to revenue bond facilities will be in accordance with the indentures, statutes, and related Board policies.

BUSINESS MANAGEMENT, NEBRASKA STATE COLLEGE SYSTEM**POLICY: 7015****Contracts; Limitations, Exemptions****Page 2 of 3****Exempt Contracts**

Certain contracts do not require review and approval by the Board. An exempt contract shall be defined as any of the following;

1. Any contract with individual students for room and board or deferred payment programs.
2. Any Agreements that establish placements for students to complete work-based learning experiences, such as an internship, practicum, clinical placement, student teaching etc.
3. Any community service and service learning contracts.
4. Any Northeast Nebraska Teacher Academy agreements (NENTA.)
5. Any articulation agreements to determine course equivalencies in accordance with Board Policies.
6. Any bus chartering contracts.
7. Any contract for the purchase of food and consumable food service items used in the regular course of business operations.
8. Any contract for the purchase of a license to use a mailing list, email list, or similar list of contacts.
9. Any contract for the purchase of supplies and commodities used in the regular course of business operations. *“Note: Advertising contracts are not considered an exempt contract. Advertising contracts in excess of \$50,000 require Board approval.”*
10. Any contract for the purchase of installation services including repairs or maintenance agreements or movable equipment including information technology products and 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.
11. 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.
12. Any contract dealing with the sale of College personal property, if Board Policy 7014 is followed.
13. 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.
14. Any contract relating to the staging or performance of any cultural, artistic, musical, scholarly, recreational, or intercollegiate athletic event (at home or away).
15. Any contract for the purchase of material to be added to the collection of any College library.

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- 16. 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.)
- 17. Any sponsorship agreements (refer to Board Policy 7017.)
- 18. Any contract with the state or federal government for the provision of Financial Aid.
- 19. Any contract associated with an emergency approved by the Chancellor.

All exempt contracts shall be signed by the President, the Vice President for Administration and Finance or the Vice President for Academic Affairs. In the event that the President, the Vice President for Administration and Finance or the Vice President for Academic Affairs are not able to sign on behalf of their respective institution, the Chancellor is authorized to execute a contract on behalf of the institution. The Chancellor or Vice Chancellor for Finance and Administration or General Counsel are authorized to sign exempt contracts for the System Office.

A list of the exempt contracts over fifty thousand dollars (\$50,000), authorized and signed by the College or System Office, shall be provided to the Board of Trustees for information in the proper format.

All other contracts, once approved by the Board, shall be signed by the President, the Vice President for Administration and Finance, or the Vice President for Academic Affairs and then by the Chancellor or Vice Chancellor for Finance and Administration, or General Counsel.

Legal Reference: RRS 85-304
RRS 85-411

Board of Trustees; Powers; Enumerated
Campus buildings and facilities; Board; Powers

- Policy Adopted: 7/22/83
- Policy Revised: 3/11/94
- Policy Revised: 6/15/95
- Policy Revised: 4/13/07
- Policy Revised: 11/4/11
- Policy Revised: 3/15/13
- Policy Revised: 9/6/13
- Policy Revised: 11/7/14
- Policy Revised: 6/18/15
- Policy Revised: 5/3/16
- Policy Revised: 6/16/17
- Policy Revised: 9/15/18
- Policy Revised: 3/21/19
- Policy Revised: 9/12/19
- Policy Revised: 4/23/20

Policy Revised:

Attachment: Revisions to Board Policy 7015 (2769 : Revisions to Board Policy 7015; Contracts; Limitations, Exemptions)