

ACTION: Final Round Approval of Revisions to Board Policies 7010; Purchases; Bids; Public Lettings, 7015; Contracts; Limitations, Exemptions, 8064; Capital Construction and Information Technology (IT); Bids, 8066; Capital Construction; Contracts; Professional Consulting Services, 8067; Capital Construction; Contracts; Works of Art, New Policy 7018; Information Technology (IT) Purchasing and Services, and Deletion of Board Policies 7016; Contracts; Consulting Services, 8065; Capital Construction; Contracts; Approvals, and 8068; Capital Construction; Contract; Forms, Payments (FFA)

Since the first round approval in June 2021 of this policy series related to procurement and contracts, significant work has been done to put the policies into a format making it easier for the user to find applicable language without reading the entire policy. The policies have also been written such that each policy is complete and stands on its own. Previously, policies 7010 and 7015 had to be read together to have all information necessary for purchasing or contracts. The most substantive changes since round one approval have been made to 7010, 7015, 7016, and 8065 and will be highlighted. The following table tracks the policies and shows the changes to the titles or if a policy was eliminated or the number was changed.

Round One Approval	Round Two Proposal
7010 - Purchases; Bids; Public Lettings	7010 - Purchasing of Materials and Equipment
7015 - Contracts; Limitations; Exemptions	7015 - Contracts and Agreements for Services
7016 - Contracts; Consulting Services	Content combined with Policy 7015
8064 - Capital Construction; Bids	8064 - Capital Construction, Facility Maintenance and Repair Contracts
8065 - Capital Construction; Contracts; Approvals	Content combined with Policy 8064
8066 - Capital Construction; Contracts; Professional Consulting Services	8066 - Professional Consulting Services Related to Capital Construction
8067 - Capital Construction; Contracts; Works of Art	8067 - Works of Art Related to Capital Construction
8068 - Information Technology (IT) & All Equipment; Procurement	7018 - Information Technology (IT) Purchasing and Services

Given the substantial reorganization and reformatting of the policies, it was not possible to track

changes and that is why you are being provided with clean versions of the policies for round two approval. It should be noted that the thresholds were determined using the University of Nebraska System as well as the State of Nebraska as a guide. The guiding principles used to determine thresholds for bidding were: 1) To garner the most competitive price for college purchases and services, and 2) To give all bidders the opportunity to bid when appropriate. After review by System Office staff and a legal review, the initial drafts were provided to the Council of Presidents. The presidents agreed that the policies should be circulated to campus personnel for feedback. The policies were provided to the chief business officers for circulation to appropriate personnel, and then the CBO group and the facilities plant directors collectively reviewed the proposed changes at a face-to-face meeting held on August 14. The drafts reflect the input from the campuses and the agreed upon changes.

The CBO group would eventually like to see policy series 6000 - Fiscal Operations and 7000 - Business Management collapsed into a single series because right now it is not clear what is in each of the series. The two series will be collapsed into 6000 - Finance and Business or something similar. Technology policies will be moved into the 7000 series over time as the policy manual updates and reformatting are completed over the next year.

Along with the return to some lower thresholds on purchasing, there was discussion about getting some relief on reporting contracts to the Board for items not approved by the Board. That proposal will come to the Board in the future after assessing what the Board is comfortable with.

Attached are clean versions of all the policies as well as a "Summary of Major Policy Changes" which compares the First Round policy revisions approved by the Board in June 2021, and the Round Two proposed policies recommended for approval.

The System Office recommends approval of the Revisions & Deletion of Board Policies 7010; 7015; 7016, 8064; 8065; 8066; 8067, 8068 (FFA).

ATTACHMENTS:

- Revisions to Board Policy 7010 (PDF)
- Revisions to Board Policy 7015 (PDF)
- Revisions to Board Policy 8064 (PDF)
- Revisions to Board Policy 8066 (PDF)
- Revisions to Board Policy 8067 (PDF)
- Board Policy 7018 (PDF)
- Deletion of Board Policy 7016 (PDF)
- Deletion of Board Policy 8065 (PDF)
- Deletion of Board Policy 8068 (PDF)
- Summary of Major Policy Changes (PDF)

NEBRASKA STATE COLLEGES

Business Management

POLICY: Purchasing of Materials and Equipment

NUMBER: 7010

A. PURPOSE

To secure the best possible prices and procure quality materials and equipment that meet specifications and other requirements. This policy applies to bidding and purchasing of all goods, materials, supplies and equipment- hereinafter referred to as “materials”.

Policy 7015 applies to all situations where there will be a contractual relationship or terms for services established in writing with a third-party except capital construction and facility maintenance which fall under Policies 8064 thru 8067.

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

B. DEFINITIONS

1. **Informal Bids:** Informal bids are price quotations which are secured by telephone calls, prices available on-line, -or letters to potential vendors or from the vendors’ published material.
2. **Formal Bids:** A formal bid is a written quote from a vendor which may include a facsimile quote or an e-mail.
3. **Competitive Sealed Bids:** Price quotations secured from vendors by means of an advertised Request for Proposal (RFP). A RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP. Facsimile quotes or e-mails are not allowed during this competitive process.
4. **Information Technology (IT):** IT purchases include devices that have a primary function related to the collection, transfer, storage, or processing of data. Equipment includes classroom and office equipment used to display or print data. Computers, printers, monitors, keyboards, servers, drivers, switches, routers software and software licenses ~~are~~ all fall within information technology.

C. POLICY

1. Purchasing Thresholds

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

1.1. **Less than \$5,000 – No bid required**

No bid is required when the materials purchased are valued at less than five thousand dollars (\$5,000). If it is determined by the College/System Office that solicitation of bids for materials costing less than five thousand dollars (\$5,000) would result in a better-quality product or lower cost, informal bids may be secured by telephone or in writing.

1.2. **From \$5,000 but less than \$50,000 – Informal bid process**

A minimum of three informal bids are required when the total of a purchase order is between five thousand dollars (\$5,000) and less than fifty-thousand dollars (\$50,000). If the bids are obtained by telephone, documentation regarding such bids is required in writing. ~~If it is not possible to get three (3) informal bids, the process and reasons should be documented.~~

1.3. **~~\$~~50,000 but less than \$150,000 – Formal bid process**

A formal process is required for all purchases that are fifty-thousand (\$50,000) but less than one hundred fifty thousand dollars (\$150,000). A minimum of three (3) written quotes is necessary. If it is not possible to get three (3) written quotes~~formal bids~~, the process and reasons should be documented.

1.4. **\$150,000 or more – Competitive Sealed Bid process**

On purchases of one hundred fifty thousand dollars (\$150,000) or more competitive sealed bids are required.

2. General Purchasing Guidance

2.1. **Purchase Orders**

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

2.2. **Most Advantageous Price**

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

2.3. **Threshold Adherence** All purchases shall be bid as a single whole item. In no case shall purchases be divided or fractionated in order to produce several purchases which are of an estimated value below that required for competitive bidding.

3. **General Bid Requirements**~~**Bid Processes**~~

3.1. **Minimum Number of Bidders**~~**General Bid Requirements**~~

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

3.2 **Bid Timelines**

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

3.3 **Bid Preference**

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

3.4 **Nondisclosure**

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

~~3. **Fair Labor Standards Compliance**~~

~~All bids shall include a statement that they are complying with, and will continue to comply with the fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. Fair labor standards shall mean wages paid and conditions of employment as are paid and maintained by at least fifty percent of similar businesses. If it is shown that any contractor submitting a bid has not complied with fair labor standards, such lack of compliance shall be the basis for disqualification of the bid.~~

~~All vendors responding to RFPs must establish and provide proof of a drug-free workplace policy or submit a statement that they are in compliance with the State of Nebraska's Drug-Free Workplace requirement. Purchase Orders used to obtain materials or equipment shall contain a statement that, by virtue of accepting the Purchase Order, the vendor is verifying that their business has established a drug-free workplace policy and is in compliance with the policy.~~

3.5. **Lowest Bidder**

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

consideration when appropriate:

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

3.6. Bid Rejection

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

4. Exceptions, Emergencies, and Sole Sourcing

4.1 Exceptions to Bidding Requirements

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

- Used items, used materials, or used supplies;
- Library books, magazines, and acquisitions;
- Purchasing from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multi-state compact contract;
- When pricing has been established by the federal General Services Administration;
- Utilities and fuels, including wood chips; and,
- Lodging and airfare.

4.2. Emergency

Emergency purchases shall be documented by the College and submitted to the President, VPAF or VPAA, for approval by the Chancellor. Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency. Emergency shall mean any situation where it is necessary to purchase something to:

- Avoid the loss of life, health, safety, or property;
- Respond to time limits established by an external authority;

- Ensure the continuation of an essential College function, utility, facility or computer/software system; or,
- Avoid, correct or repair a situation outside the control of the College including detrimental negligence or acts of an employee, natural or manmade disasters, and security or data compromise.

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

4.3. Sole Source

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

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

5. Compliance Requirements

5.1. Purchasing Responsibility

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

5.2. Independence and Conflict of Interest

- While an employee as a prospective user may informally seek information and confer with a vendor about the characteristics and list price of a product, negotiation for purchase of such product must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included along with other price documentation accompanying a purchase order to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the requirements stated in Policy 5002 Requirements when working with potential vendors.
- No employee shall be financially interested, or have any beneficial personal interest, directly, or indirectly, in the purchase of any articles or property, nor in any firm, partnership, corporation or association furnishing them. No such person shall receive or accept directly or indirectly from any person, firm or corporation submitting any bid or to whom a contract may be awarded, by rebate, gift or otherwise, any money or other thing of value whatsoever, or any promise, obligation or contract for future reward, or compensation.

5.3. Disabled Veteran or Enterprise Zone Act Preference

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

5.4. Federal Funding

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

suspended or debarred.

5.5 Work Eligibility Status

~~Whenever a contract required,~~ All contractors shall register and use a federal immigration system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

5.6 Fair Labor Standards Compliance

All bids shall include a statement that they are complying with, and will continue to comply with the fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. Fair labor standards shall mean wages paid and conditions of employment as are paid and maintained by at least fifty percent of similar businesses. If it is shown that any contractor submitting a bid has not complied with fair labor standards, such lack of compliance shall be the basis for disqualification of the bid.

5.7 Drug Free Workplace

All vendors responding to RFPs must establish and provide proof of a drug-free workplace policy or submit a statement that they are in compliance with the State of Nebraska's Drug-Free Workplace requirement. Purchase Orders used to obtain materials or equipment shall contain a statement that, by virtue of accepting the Purchase Order, the vendor is verifying that their business has established a drug-free workplace policy and is in compliance with the policy.

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

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

Policy Adopted: January 1977

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

NEBRASKA STATE COLLEGES

Business Management

POLICY: Contracts and Agreements for Services

NUMBER: 7015

A. PURPOSE

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

Policy 7015 applies to all situations where there will be a contractual relationship or terms established in writing with a third-party except capital construction and facility maintenance which fall under Policies 8064 thru 8067.

Any contract related to IT consulting or services must also adhere to the requirements laid out in Policy 7018.

B. DEFINITIONS

- 1. Informal Bids:** Informal bids are price quotations for services which are secured by telephone call or letters to potential vendors or from the vendors' published material.
- 2. Formal Bids:** A formal bid is a written quote from a vendor which may include a facsimile quote or an e-mail.
- 3. Competitive Sealed Bids:** Price quotations secured from vendors by means of an advertised Request for Proposal (RFP). A RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP. Facsimile quotes or e-mails received by the institution are not allowed during this competitive process.
- 4. Information Technology (IT):** IT services include any contracting or support provided by vendors related to software systems or IT equipment.

C. POLICY

1. Contract Thresholds

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

1.1. All Contracts except for Consulting Agreements

- **Contracts less than \$25,000**
 - Signed by the President, Vice President for Administration and Finance (VPAF) or Vice President for Academic Affairs (VPAA);
 - No bid is required when the contract will be less than twenty-five thousand dollars (\$25,000). If it is determined by the College or System Office that solicitation of bids for contracts costing less than twenty-five thousand dollars (\$25,000) would result in a lower cost or better service, informal bids may be secured by telephone or in writing.
 - No contract is required for repair or maintenance services less than twenty-five thousand dollars (\$25,000) to equipment, vehicles, furnishings, facilities or grounds.
- **From \$25,000 but less than \$150,000**
 - Signed by the President, VPAF or VPAA
 - The contract is awarded using a formal bid process. If it is not possible to get three (3) bids, the process and reasons should be documented.
- **\$150,000 but less than \$300,000**
 - Contract is awarded based on a competitive sealed bid process.
 - Signed by the President, VPAF or VPAA
- **\$300,000 and above**
 - Contract is awarded based on a competitive sealed bid process;
 - Requires Board approval or Board authorization for the Chancellor to approve;
 - Signed by the Chancellor, Vice Chancellor for Finance and Administration (VCFA) or General Counsel; and the President, VPAF or VPAA

1.2. Consulting Contracts

- **Contracts less than \$75,000**
 - Signed by the President, VPAF or VPAA
 - No bid is required when the contract will be less than seventy-five thousand dollars (\$75,000). If it is determined by the College or System Office that solicitation of bids for contracts costing less than seventy-five thousand dollars (\$75,000) would result in a lower cost or better service, informal bids may be secured by telephone or in writing.
- **From \$75,000 but less than \$150,000**
 - Signed by Chancellor, VCFA or General Counsel; and the President, VPAF or VPAA
 - The contract is awarded using a competitive sealed bid process. A minimum of three (3) quotes is necessary. If it is not possible to get three (3) bids, the process and reasons should be documented.
- **\$150,000 or more**
 - Requires Board approval or Board authorization for the Chancellor to approve;
 - Signed by the Chancellor, VCFA or General Counsel; and the President,

VPAF or VPAA

- Contract is awarded based on a competitive sealed bid process

2. General Bid Requirements

2.1. **Minimum Number of Bidders**

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

2.2. **Bid Timelines**

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

2.3. **Bid Preference**

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

~~2.4. **FLSA Compliance**~~

~~All bids shall include a statement that they are complying with, and will continue to comply with the fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. Fair labor standards shall mean wages paid and conditions of employment as are paid and maintained by at least fifty percent of similar businesses. If it is shown that any contractor submitting a bid has not complied with FLSA, such lack of compliance shall be the basis for disqualification of the bid.~~

~~2.5. **Drug Free Workplace**~~

~~All vendors responding to RFPs must establish and provide proof of a drug-free workplace policy or submit a statement that they are in compliance with the State of Nebraska's Drug-Free Workplace requirement. Purchase Orders used to obtain materials or equipment shall contain a statement that, by virtue of accepting the Purchase Order, the vendor is verifying that their business has established a drug-free workplace policy and is in compliance with the policy.~~

2.46. **Nondisclosure**

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

2.57. **Lowest Bidder**

All purchases of services shall be made from the lowest bidder, taking into consideration the best interest of the College, the quality of the materials proposed to be supplied, conformity with specifications, the purposes for which required, and

the times of delivery. In determining the lowest bidder, in addition to price, the College may develop criteria specific to a purchase or may give the following elements consideration when appropriate:

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

2.68. Bid Rejection

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

~~2.9. Independence and Conflict of Interest~~

~~• While an employee as a prospective user may informally seek information and confer with a vendor about services and prices, negotiation for purchase of services must be done in compliance with the College and Board policies.~~

~~• The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.~~

~~• If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included along with other price documentation accompanying a purchase order to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the requirements stated in Policy 5002 Requirements when working with potential vendors.~~

~~• No employee shall be financially interested, or have any beneficial personal interest, directly, or indirectly, in the purchase of any services, nor in any firm, partnership, corporation or association furnishing them. No such person shall receive or accept directly or indirectly from any person, firm or corporation submitting any bid or to whom a contract may be awarded, by rebate, gift or otherwise, any money or other thing of value whatsoever, or any promise, obligation or contract for future reward, or compensation.~~

~~2.10 Threshold Adherence~~

~~All services shall be bid as a single whole item. In no case shall services be divided or broken up in order to produce several smaller contracts which are of an estimated value below that required for bidding.~~

3. **Compliance General Contract Requirements**

3.1. **Contract Execution**

No contract, lease, or purchase agreement that requires Board or Chancellor approval, shall be signed or finalized in any form until the Board or Chancellor has authorized the college to enter into the contract.

3.2. **Non-Appropriation Clause**

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

3.3. **Contract Negotiation and Authorization**

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

3.4. **Chancellor Approval**

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

3.5. **Contract Reporting**

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

3.6. **Contract Form**

- The NSCS standard contract forms are to be used whenever possible. (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 contract.
- If an online user agreement (sometimes referred to as a “click-through agreement”) is required for a purchase, the terms and conditions are to be approved by the appropriate vice president.

3.7. **Equal Opportunity Statements**

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.

3.8. **Drug-Free Workplace**

All contractors and vendors responding to bids with a College must establish and provide proof of a drug-free workplace policy or submit a statement that they are in compliance with the State of Nebraska’s Drug-Free Workplace requirement.

3.9. Fair Labor Standards Compliance

All bids shall include a statement that they are complying with, and will continue to comply with the fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. Fair labor standards shall mean wages paid and conditions of employment as are paid and maintained by at least fifty percent of similar businesses. If it is shown that any contractor submitting a bid has not complied with fair labor standards, such lack of compliance shall be the basis for disqualification of the bid.

3.10. Independence and Conflict of Interest

- While an employee as a prospective user may informally seek information and confer with a vendor about services and prices, negotiation for purchase of services must be done in compliance with the College and Board policies.
- The principal purchasing agent shall retain responsibility for assuring compliance with procurement procedures.
- If correspondence is carried on between a prospective user and a vendor, copies of such correspondence shall be included along with other price documentation accompanying a purchase order to the extent determined appropriate by the principal purchasing agent. Employees are to be aware of and follow the requirements stated in Policy 5002 Requirements when working with potential vendors.
- No employee shall be financially interested, or have any beneficial personal interest, directly, or indirectly, in the purchase of any services, nor in any firm, partnership, corporation or association furnishing them. No such person shall receive or accept directly or indirectly from any person, firm or corporation submitting any bid or to whom a contract may be awarded, by rebate, gift or otherwise, any money or other thing of value whatsoever, or any promise, obligation or contract for future reward, or compensation.

3.11 Threshold Adherence

All services shall be bid as a single whole item. In no case shall services be divided or broken-up in order to produce several smaller contracts which are of an estimated value below that required for bidding.

3.12. Work Eligibility Status

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

3.13. Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a state contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder if all other factors are equal.
- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated

with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense.

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

3.14. Federal Funding

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

4. Contracts Delegated to Colleges

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

- Any contract with individual students for room and board or deferred payment programs.
- Any contract that establish placements for students to complete work-based learning experiences, such as an internship, practicum, clinical placement, student teaching etc.
- Any community service and service learning contract.
- Any Northeast Nebraska Teacher Academy agreement (NENTA-)
- Any articulation agreement to determine course equivalencies in accordance with Board Policies.
- Any bus chartering contract.
- Any contract for the purchase of supplies and commodities used in the regular course of business operations.
- Any contract for the purchase of a license to use a mailing list, email list, or similar list of contacts.
- Any contract for the purchase of utilities, gasoline, oil, diesel fuel, or wood chips used in the regular course of business operations. Utilities shall include trash services, cable television and internet services.
- Any contract dealing with the sale of college personal property, so long as Policy 7014 is followed.
- Any granting of a lease or rental contract to an external party, if the annual proceeds are less than twenty-four thousand dollars (\$24,000) in accordance with Policy 8027.
- Any contract relating to the staging or performance of any cultural, artistic, musical, scholarly, recreational, or intercollegiate athletic event (at home or away).

- Any contract for the purchase of material to be added to the collection of any college library.
- 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.
- Any sponsorship contract (refer to Policy 7017-)
- Any contract with the state or federal government for the provision of Financial Aid.
- Any contract or change order or addendum associated with an emergency approved by the Chancellor.

5. Exceptions to Bidding, Emergencies, and Sole Sourcing

5.1. Exceptions to Bidding Requirements

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

- Software license renewals;
- Technology resource maintenance contracts;
- Purchasing services from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multi-state compact contract;
- When pricing has been established by the federal General Services Administration;
- Other exceptions include medical clinic and nursing services, and game guarantee contracts.

5.2. Emergency

Emergency purchases shall be documented by the College and submitted to the President, VPAF or VPAA, for approval by the Chancellor. Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency. Emergency shall mean any situation where it is necessary to purchase something to:

- Avoid the loss of life, health, safety, or property;
- Respond to time limits established by an external authority;
- Ensure the continuation of an essential college service, function, utility, facility or computer/software system; or
- 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.

5.3. Sole Source

Documentation to purchase based on sole source without competitive bids or proposals shall be documented by the College and approved by the President, VPAF, or VPAA and given system office approval by either the VCIF, or VCAF. A sole source purchase is when there is only a single feasible or sole source for the services. A single feasible or sole source exists when:

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

6. Contracts Requiring Board Approval at any Amount

6.1 Revenue Bond Auditors

Per Policy 9006, all revenue bond auditor contracts require Board approval regardless of dollar amount. All contracts related to revenue bond facilities will be in accordance with the indentures, statutes, and related Board policies.

6.2 Educational Partnerships

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

6.3 Food Service and Bookstore Contracts

All food service and bookstore contract require Board approval in advance per Policies 9015 and 9020.

7. Consultant Contract Guidance

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

7.1 Auditor, Lobbyist, and Search Consultants

The hiring and retention of personnel not regularly employed by the Colleges and the System Office to act as auditor (other than revenue bond auditor in accordance with Policy 9007) or independent certified public accountant, lobbyist, or search consultant

for durations greater than five (5) days for any College or the System Office, shall be approved by the Chancellor. The Chancellor is delegated the responsibility for selecting and negotiating these services on behalf of the Board. The Chancellor shall determine if a contract is necessary. A competitive process is not required. In each instance the Chancellor shall notify the Board.

7.2. Legal Services

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

7.3. System Consultants

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

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

Policy Adopted: July 1983

Policy Revised: March 1994, June 1995, April 2007, November 2011, March 2013, September 2013, November 2014, June 2015, May 2016, June 2017, September 2018, March 2019, September 2019, April 2020, July 2020, September 2021

NEBRASKA STATE COLLEGES

Facilities

POLICY: Capital Construction, Facility Maintenance and Repair Contracts

NUMBER: 8064

A. PURPOSE

To provide guidance on capital construction, facility maintenance and repair contracts.

Professional consulting services related to capital construction must follow Policy 8066.

B. DEFINITIONS

1. **Construction Project** – Any new facility, expansion of a current facility, major remodeling or renovation of a current facility.
2. **Maintenance and Repair Project** – The routine upgrade or repairs to current facilities.
3. **Formal Bids:** A formal bid is a written quote from a vendor which may include a facsimile quote or an e-mail from the vendor.
4. **Competitive Sealed Bids:** Price quotations secured from vendors by means of an advertised Request for Proposal (RFP) or Bid Proposal form. A RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors. A minimum of fifteen (15) calendar days shall elapse between the time the RFP or Bid Proposal opportunity is advertised and the time of the bid opening. Bids must be opened in the manner, time and date specified in the RFP or Bid Proposal notice. Facsimile quotes or e-mails received by the institution are not allowed during this competitive process.

C. POLICY

1. Contracting Thresholds

All contracts shall conform to the following dollar thresholds and bidding process:

1.1. Less than \$50,000 – Bids not required

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

1.2. From \$50,000 but less than \$150,000 – Formal bid process

Construction projects with a total project cost between fifty thousand dollars (\$50,000) and less than one hundred ~~and~~ fifty thousand dollars (\$150,000) shall observe the following bidding procedure:

- Three (3) or more quotations for the project shall be solicited from bidders. Original quotations may be obtained in writing or verbally. Any verbal quotations must be followed up with a written or faxed confirmation for project

files.

- A fixed bid receipt date or public opening is not required.
- A contract shall be executed for the project after negotiating a price that is reasonable and within budget.
- All resulting quotations or refusals to quote shall be documented by the College.
- Information on these contracts shall be reported to the Board of Trustees, per Policy 7015.

1.3. \$150,000 or more – Competitive Sealed Bid process

Construction and maintenance projects with a total cost exceeding one hundred ~~and~~ fifty thousand dollars (\$150,000) or more, shall use competitive sealed bid process.

2. Project and Contract Approvals

2.1. Approval of Projects

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

2.2 Executing Contracts less than \$300,000

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

- Any contract for the construction, alteration, renovation, remodeling, repair, or demolition of any building or other improvement to real property, under which payment by the College will not exceed three hundred thousand dollars (\$300,000).
- Contracts with architects or engineers or consultants where the fee will be less than one hundred ~~and~~ fifty thousand dollars (\$150,000).
- Contract change orders, addenda and amendments involving each additional expenditure under one hundred ~~and~~ fifty thousand dollars (\$150,000).

2.3 Board Approval of Contracts

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

- Capital construction, facility maintenance or repair contracts ~~and land purchases~~ amounting to three hundred thousand dollars (\$300,000) or more.
- Any contract with an engineer or architect ~~or IT consultant where the if the~~ fee

- ~~will be ould exceed one hundred and fifty thousand dollars (\$150,000) or more.~~
- Contract change orders and addenda involving additional expenditure ~~of over~~ one hundred ~~and~~ fifty thousand dollars (\$150,000) ~~or more.~~
- Once approved by either the Board or the Chancellor, the construction or maintenance contract shall be signed by the ~~vendor~~, the President or VPAF, and then by the Chancellor, Vice Chancellor for Finance and Administration (VCFA), or General Counsel. A contract signed by the vendor should be available for execution at the Board meeting when approved.

2.4. Approval Exceptions

If approval of the any construction or maintenance contracts are critical to the schedule of the project, the following exceptions may be made:

- The Chancellor shall be authorized to approve construction and maintenance contracts ~~of above~~ three hundred thousand dollars (\$300,000) ~~or more.~~ so long as the Board has authorized the project and compliance with all specifications, bidding and contract procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.
- The Chancellor shall be authorized to approve engineer or architect ~~or IT consulting~~ contracts ~~of above~~ one hundred ~~and~~ fifty thousand dollars (\$150,000) ~~or more.~~ -so long as the Board has authorized the project and compliance with all consultant selection procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.
- If approval of the change order or addenda is critical to the schedule of the project, the Chancellor has the option of approving it as an emergency as defined in 4.1.2 below. Such approved emergency change orders and addenda will be provided as an information item at the next Board meeting.

3. Bidding Requirements

3.1. Competitive Sealed Bid

The ~~following~~ details ~~below~~ must be followed when using a competitive sealed bid process to award a contract:

- Specifications: All specifications and plans for buildings to be renovated or constructed, are to be prepared by professional architects and/or engineers in accordance with state law. The specifications and plans shall be prepared to conform with the budget amount authorized for that project.
- Advertising: A public notice for construction shall appear once in a publication based in or near the locality of the project and in other widely circulated publications and electronic platforms as deemed necessary by the College. A copy of the advertisement shall be kept on file with the College. The notice shall not appear on a weekend or holiday. A minimum of fifteen (15) calendar days shall elapse between the time formal bids are first advertised or called for and the time of their opening. The notice, bid specifications or RFP shall include, at a minimum, the following

information:

- Name of Board of Trustees and the College
- Description of project
- Date, place and time when bids must be received
- Person to contact for information
- Locations where bid documents can be viewed/obtained
- Bid Submission and Opening: Bids shall be submitted in a sealed envelope with notation of the project on the front. Bids shall be opened on the date, time and place as advertised. The bid opening shall be conducted in public so that all bidders and interested parties may be present. No bids are to be received after the specified time and if so, are to be returned unopened. The bidder's envelope is to be attached to the back of the bid form. College staff or the professional consultant shall be responsible for opening and reading aloud the bids. Bid documents shall be considered public information after they have been opened. The following requirements shall be noted at the time of opening the bid:
 - Conformance with bidding instructions
 - Accompanied by bid bond or certified check or sent in separately in case of a bid submitted electronically
 - Acknowledgment of any addendum
 - Bid is signed
- Evaluation: When bids are received, publicly opened and read, the contractors shall not be notified of the final decision until a later date so that adequate study and analysis can be made of the bids received. The professional consultant shall evaluate the bids received and make a recommendation to the College. Awarding of the contracts shall be based on competitive bidding with award to the lowest bidder, taking into consideration the best interests of the State of Nebraska and the System, the quality or performance of the firm and the materials to be supplied, their conformity with specifications, and the times of completion. In determining the lowest bidder, in addition to price, the following elements shall be given consideration:
 - The ability, capacity, and skill of the bidder to perform the contract required;
 - The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
 - Whether the bidder can perform the contract within the time specified;
 - The quality of performance of previous contracts;
 - The previous and existing compliance by the bidder with laws relating to the contract;
 - Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment; and

- The life-cost of the article or property in relation to the purchase price and the specific use of the item;
- The performance of the article or property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- Such other information as may be secured having a bearing on the decision to award the contract.
- Bid acceptance: The recommendation, bid tab sheet and other applicable materials shall be provided to the System Office for review. If less than three (3) bids or proposals are received, then bids may be accepted upon documentation of the bidding process. If the recommendation is to reject the lowest bid for any one or more of the reasons stated above, the recommendation must include the reason(s) for the rejection. The ~~Board~~NSCS always reserves the right to reject any or all bids.

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

Exceptions to the bidding process include certain maintenance projects, an emergency situation, or based on sole source criteria.

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

- Proposed emergency capital construction or maintenance projects shall be documented by the College and submitted to Vice Chancellor for Facilities and Information Technology (VCFIT), for approval by the Chancellor. Chancellor approval of an emergency automatically includes the suspension of bidding requirements as appropriate for each emergency.

4.2. **Sole Source**

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

- Services are proprietary and only available from the manufacturer of a building system or equipment and the vendor is the only firm providing the unique expertise.
- Additions to a system must be compatible with the original equipment or facility software.

- The same vendor of an installed system is necessary to install expansions to that system.
- Factory authorized maintenance services must be utilized in order to maintain a warranty or the integrity of system.
- Based on current research, it is determined that only a single entity services the region in which the project is needed.
- Donors providing the funding for an item, service or system may specify a particular vendor, manufacturer or brand of equipment to be used for the project.

5. General Contract Guidance

5.1. Performance Bond

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.

5.2. Resident Bidder Preference

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

5.3. Contract Negotiation and Legal Requirements

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

5.4. Fair Labor Standards Compliance

All bidders on College projects must file a statement that they are complying with, and will continue to comply with fair labor standards in the pursuit of their business and in the execution of the contract on which they are bidding. Fair labor standards shall mean wages paid and conditions of employment as are paid and maintained by at least fifty percent of similar businesses.

5.5. Drug-Free Workplace Compliance

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

5.6. Non-Discrimination Requirement

The contractor must specifically agree not to discriminate against any recipient of services on the basis of race, color, sex, religion, sexual orientation, gender identity, age, marital status, disability, political affiliation, or national origin, and not to discriminate against any employees or applicant for employment on the basis of race,

color, sex, religion, sexual orientation, gender identity, age, marital status, disability, political affiliation, or national origin.

5.7. Equal Opportunity Statements

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.

5.8. Contract Forms

- All contracts for construction and maintenance projects and related services in excess of three hundred thousand dollars (\$300,000) will be reviewed by the General Counsel or VCFIT prior to submission to the Board for consideration and action.
- Contract forms developed by the System Office may be used for all construction and other related services where the cost will be less than one hundred thousand dollars (\$100,000).
- If one hundred thousand dollars (\$100,000) or more, and a professional architect or engineer has designed and specified the project, the latest applicable American Institute of Architects (AIA) contract form must ~~should~~ be utilized and must incorporate the standard NSCS Long Form provisions.

5.9. Non-Appropriation Clause

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

5.10. Independence

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.

5.11. Threshold Adherence

All construction or maintenance and repair projects shall be bid as a single whole item. In no case shall materials and services be divided or broken-up in order to avoid required bidding.

5.12. Conflict of Interest

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.

5.13. Reporting to the Board

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

5.14. Disabled Veteran or Enterprise Zone Act Preference

- In accordance with state law, when a state contract is to be awarded to the lowest bidder, a resident disabled veteran or a business located in a designated enterprise

zone under the Enterprise Zone Act shall be allowed a preference over any other resident or nonresident bidder if all other factors are equal.

- Resident disabled veteran means any person who resides in the State of Nebraska, who served in the United States Armed Forces, including any reserve component or the National Guard, who was discharged or otherwise separated with a characterization of honorable or general (under honorable conditions), and who possesses a disability rating letter issued by the United States Department of Veterans Affairs establishing a service-connected disability or a disability determination from the United States Department of Defense.
- The resident disabled veteran must own and control a business or, in the case of a publicly owned business, more than fifty percent (50%) of the stock must be owned by one or more persons that meet the definition of a resident disabled veteran. The management and daily business operations of the public business must also be controlled by one or more persons meeting the definition of resident disabled veteran.

5.15. Work Eligibility Status

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

5.163 Payments

For construction contracts with phased payments, the payment schedule shall be as follows:

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

Legal Reference: RRS 4-114	Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties
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 73-107	Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void
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 81-3449	Practice of architecture; exempted activities
RRS 81-3453	Practice of engineering; exempted activities
RRS 85-304	Board of trustees; powers; enumerated

Policy Adopted: March 1994

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

NEBRASKA STATE COLLEGES

Facilities

POLICY: Professional Consulting Services Related to Capital Construction

NUMBER: 8066

A. PURPOSE

To ensure professional consulting services related to construction projects follow the procedures established by the Nebraska Consultants' Competitive Negotiation Act in the selection of professionals needed for capital construction projects.

B. DEFINITIONS

- 1. Construction Costs** – The total amount to be spent for construction materials and installations, excluding architects and other professional consultant fees.

C. POLICY

1. Thresholds

When cConstruction costs are greater than seven hundred five thousand dollars (\$705,000) and consulting fees are greater than seventy thousand dollars ~~above~~ (\$70,000):-

- Request for Proposals to be issued
- For projects whose basic construction costs are estimated to be more than the limit established in Neb. Rev. Stat. §81-1108.43 and periodically adjusted by the Department of Administrative Services (currently seven hundred five thousand dollars [\$705,000] until January 1, 2022) and the estimated fee is anticipated to exceed the limit established in Neb. Rev. Stat. §81-1712 and periodically adjusted by the Department of Administrative Services (currently seventy thousand dollars [\$70,000] until January 1, 2022).

2. Applicability

All contracts involving the use of Building Renewal funds must conform to Project Procedures/Standards as promulgated by the Task Force for Building Renewal.

3. Advertisement for Consulting Services

- A Request for Proposal (RFP) advertisement for the project shall be drafted by the College and reviewed by System Office staff before publication.
- The advertisement shall include a general description of the project and the name of the person at the College to contact for additional information.
- This advertisement must be published once at least thirty (30) calendar days prior to the deadline for receipt and opening of proposals in a publication based in or near the locality of the project and in other widely circulated publications or electronic

- platforms as deemed necessary by the College.
- A timeline shall be noted in the advertisement including the deadline for submittal of proposals. The RFP will direct the firms to include specific forms/information with their proposals.

4. Proposal Reviews

4.1. Screening Committee

The President is authorized to appoint a screening committee to review the professional consultants' proposals and to select three or four firms for interviews by the selection committee. It is suggested that the local committee include the leadership Chair/Dean of the Division/Department for which the facility is being constructed/renovated; the -Vice President of Administration and Finance (VPAF); the College Director of Facilities; and others deemed appropriate by the President.

4.2. Proposal Criteria

In evaluating the proposals, the screening committee shall give consideration to the following criteria:

- Demonstrated interest in project
- Relevant experience in projects of similar nature
- Background of key personnel to be involved in project
- Planned use of outside consultants
- Approach in working with campus staff, students, faculty
- Past performance in meeting budget limits and time schedules
- Evaluation of firm's work on other state projects
- Evaluation of proposal
- Current workload and past volume of work for State Colleges to promote an equitable distribution of contracts among qualified firms
- Any additional project specific criteria

4.3. Selection Committee

The President shall recommend the membership of the Selection Committee to the Board for approval. Included as members of the committee will be a Board of Trustee member; Chair of the Fiscal, Facilities & Audit Committee; the Vice Chancellor for Facilities and Information Technology (VCFIT); and appropriate campus personnel as desired by the President.

4.4. Selection Committee Interviews

- The College representative in charge of the selection process shall consult with the System Office staff in scheduling the date for the interviews.
- Once the firms to be interviewed have been identified by the screening committee, notification and appropriate material shall be forwarded to the selection committee for review prior to the interviews.
- The objective criteria used by the Selection Committee shall be similar to that used by the Screening Committee.

- Unless time is not available, each firm shall be interviewed for one (1) hour, including questions from the selection committee.

4.5. Selection Committee Decision

When the interviews have all been completed, the committee shall discuss the strengths of the firms in relation to the proposed project and shall arrive at agreement on the order of firm preference.

4.6. Contract Negotiation

After the Selection Committee has made their selections, the College shall then negotiate a contract, with the selected firm, keeping in mind the budget for professional fees. If the fee cannot be negotiated with the first-place firm within the budget limits and required terms, negotiations shall be held with the second-place firm. If agreement cannot be reached with the second qualified firm, negotiations shall be undertaken with the third-place firm. If those negotiations do not result in a satisfactory agreement, the College and System Office staff will determine the next steps.

4.7. Agreement Form

The Department of Administrative Services “Open End Agreement” as defined by DAS Standard Form of Consulting Services: Design and Contract Administration, Nebraska Open End Agreement may be substituted as defined by DAS policy. Per the current DAS-BD Open End Agreement, the policy applies to projects not to exceed two million dollars (\$2,000,000). The policy recognizes the DAS-BD Open End Agreement as an already complete Proposal Request.

5. Exceptions to Process

5.1. Emergencies and DAS Selected Consultants

In cases of emergencies approved by the Chancellor, and in cases where a DAS “Open End Agreement” consulting firm is utilized at less than one hundred and fifty thousand dollars (\$150,000) in fees, the consultant selection procedures in Sections 3 and 4 above are not required.

6. Contract Changes

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

Legal Reference: RRS 81-1108.43	Capital construction project; prohibited acts; exceptions; warrant; when issued.
RRS 81-1701et. seq.	Nebraska Consultants' Competitive Negotiation Act
RRS 85-304	Board of trustees; powers, enumerated.
RRS 85-306	State colleges; president; duties.
RRS 85-316	State colleges; funds; contingencies; disbursements; travel expense.
RRS 85-325	Construction projects; board of trustees; powers.
RRS 85-411	Campus buildings and facilities; board; powers

| Policy Adopted: March 1994

Policy Revised: March 1994, June 1998, September 2002, February 2004, September 2006, November 2009, April 2010, March 2013, November 2013, November 2014, November 2015, March 2017, April 2018, September 2021

NEBRASKA STATE COLLEGES

Facilities

POLICY: Works of Art Related to Capital Construction

NUMBER: 8067

A. PURPOSE

To make provisions for the inclusion of appropriate art in College facility projects using state tax funds through a specific appropriation approved by the Legislature.

B. DEFINITIONS

None

A. POLICY

1. Funding Art

- The Board, in consultation with the Nebraska Arts Council, shall determine the amount of money to be made available for the purchase of art for each project under its supervision.
- At least one percent (1%) - minus applicable deductibles - of any appropriation for the original construction cost of certain public building under the supervision of the Board shall be spent for the acquisition of works of art.
- The requirement for committing funds to art shall not include repair shops, garages, warehouses or buildings of a utilitarian nature.

2. Art Selection Committee

- The President to which an appropriation is made for the construction, expansion, or renovation of a public building will appoint an art selection committee consisting of a minimum of three (3) members for the purpose of advising the President on art for eligible projects.
- The committee should be established at the earliest practical time after appropriation of design funds. The decision as to whether the art is to be an integral part of the structure, attached to the structure, detached within or outside of the structure, or exhibited in other public facilities should be made prior to the design of the project and shall be made by the President with the advice of the committee and the architect.
- The committee shall be responsible for advising the President on the type of art; the selection and commissioning of an artist; the design and execution of the proposed work of art; the placement and acceptance of the work of art.

3. Nebraska Arts Council

The President shall consult with the Nebraska Arts Council prior to any formal action by the Board. Consultation should cover the amount of funds available for art; the type,

placement, and acceptance of art; the selection and commissioning of an artist; and the proposed art design.

4. Approval of Art

The President will get approval of funding, the artist and the proposed art design by the Board.

5. Art Commissioning

A contract may be conditioned upon later refinements in scope and price and may permit the College in agreement with the artist to make changes in the project without invalidating the contract. Later refinements shall not exceed the scope of the program statement contained in the request for proposals.

6. Placement of Art

The work of art may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or may be exhibited by the Board in other public facilities.

Legal Reference: RRS 85-304.01	Nebraska State Colleges; new capital construction; appropriation; percentage used for works of art; when
RPS 85-304.02	Board of Trustees: works of art; duties
PRS 85-304.03	Board of Trustees: insure compliance with sections; manner
RRS 82-316	Nebraska Arts Council Cash Fund; created; deposits; disbursements; investment
RRS 82-317	Public buildings; artwork; declaration of policy
RRS 82-318	Public buildings; artwork; terms, defined
RRS 82-319	New state capital construction; appropriation; percentage used for works of art
RRS 82-320	Nebraska Arts Council duties
RRS 82-321	Construction project artwork; committee; created; members; duties
RRS 82-322	Nebraska Arts Council; Promulgate rules and regulations
RRS 82-323	Nebraska Arts Council; artists; how chosen
RRS 82-324	Nebraska Arts Council; insure compliance prior to payment; manner
RRS 82-325	Public buildings; expenditures for works of art; contracted separately
RRS 82-326	Public buildings; appropriation; works of art; administration and installation; art maintenance fund
RRS 82-327	Public buildings; works of art; how displayed
RRS 82-328	Public buildings; works of art; property of State of Nebraska; sales of reproductions
RRS 82-329	Public buildings; works of art; Nebraska Arts Council; maintain inventory; inspect; recommend procedures

Policy Adopted: May 1982

Policy Revised: March 1994, November 1995, April 2000, September 2006, April 2010, September 2021

NEBRASKA STATE COLLEGES

Business Management

POLICY: Information Technology (IT) Purchasing and Services

NUMBER: 7018

A. PURPOSE

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

B. DEFINITIONS

None

C. POLICY

1. Information Technology Purchases and Services

1.1 Technology Approvals

Security of data, and requirements for NSCS Technology Resources, need to be considered when employees make IT purchases. In accordance with Standard 10: Technology Resources Acquisition, from the NSCS Information Security Program in Policy 7003, all employees must consult with the applicable Chief Information Officer (CIO), Vice President for ~~Facilities and~~ Information Technology (VPFIT) 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.

- Purchasing thresholds and requirements provided in Policy 7010 must be followed for any purchases approved by the appropriate IT personnel.
- Contract and agreement thresholds and requirement provided in Policy 7015 must be followed for any services approved by the appropriate IT personnel.

2. Information Technology (IT) Consulting

2.1. Selection Committee

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

- The committee may also consider “best and final offers” to determine final selection and award of contract.

Legal Reference: RRS 85-304 Board of trustees; powers, enumerated

Policy Adopted: March 1994

Policy Revised: September 1997, February 2004, September 2006, November 2009, April 2010, March 2013, June 2015, September 2021

~~BUSINESS MANAGEMENT, NEBRASKA STATE COLLEGE SYSTEM~~

~~POLICY: 7016 Contracts; Consulting Services Page 1 of 2~~

~~BOARD POLICY~~

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

~~LEGAL COUNSEL, AUDITOR, LOBBYIST AND SEARCH CONSULTANT~~

~~The hiring and retention of personnel not regularly employed by the Colleges and the System Office to act as legal counsel, auditor or independent certified public accountant (other than revenue bond auditor in accordance with Policy 9007), lobbyist, or search consultant for durations greater than five (5) days for any College or the System Office, shall be approved by the Chancellor. The Chancellor is delegated the responsibility for selecting and negotiating these services on behalf of the Board. The Chancellor shall determine if a service contract is necessary. A competitive process is not required. In each instance the Chancellor shall notify the Board.~~

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

~~ALL OTHER CONSULTING SERVICES~~

~~“All other consulting contracts” in the following paragraphs applies to contracts other than legal counsel, auditor or independent certified public accountant, lobbyist, and search consultant found in the section above. In addition, it does not apply to architect/engineering and IT consulting services, which can be found in Policy Series 8000.~~

~~The Presidents are delegated the responsibility for selecting and negotiating on behalf of the Board, all other consulting contracts for their respective Colleges where the total cost (fees plus related expenses) is expected to be under thirty-five thousand dollars (\$35,000). Such 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 consulting contract on behalf of the institution.~~

~~For all other consulting contracts where the total cost is estimated to be between thirty five thousand dollars (\$35,000) and seventy thousand dollars (\$70,000), the contracts shall be approved by the Chancellor and 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.~~

~~The Chancellor is delegated the responsibility for selecting and negotiating on behalf of the Board, all other consulting contracts for the System Office or Systemwide where the total cost is expected to be under seventy thousand dollars (\$70,000). Such contracts shall be signed by the Chancellor or Vice Chancellor for Finance and Administration or General Counsel.~~

~~All other consulting contracts exceeding seventy thousand dollars (\$70,000) that are covered under this policy shall follow a competitive RFP process and be approved by the Board. These 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.~~

~~All other consulting contracts not requiring Board approval must be reported to the Board.~~

~~BUSINESS MANAGEMENT, NEBRASKA STATE COLLEGE SYSTEM~~

~~POLICY: 7016 Contracts; Consulting Services Page 2 of 2~~

~~Legal Reference: RRS 85 304 Board of Trustees; Powers; Enumerated~~

~~Policy Adopted: 3/11/94
Policy Revised: 9/15/06
Policy Revised: 4/13/07
Policy Revised: 6/15/12
Policy Revised: 3/15/13
Policy Revised: 8/12/14
Policy Revised: 9/6/14
Policy Revised: 11/7/14
Policy Revised: 3/26/15
Policy Revised: 1/12/16
Policy Revised: 9/15/18
Policy Revised: 4/23/20~~

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

~~POLICY: 8065 Capital Construction & Information Technology; Contracts; Approvals, Forms, Payments, Works of Art Page 1 of 23~~

~~BOARD POLICY~~

~~The Board of Trustees is responsible for all capital construction contracts. No contract may commit funds for a project until the fund resource has been identified and approved by the Board of Trustees with the exception of Task Force for Building Renewal funds which require approval by the Chancellor. While Task Force projects must follow all other requirements in this policy, unless otherwise noted, 309 funding does not have to be accepted by the Board prior to committing funds in accordance with this policy. Further, for state-funded projects, the appropriation must have been received before construction contracts are submitted for approval. For revenue bond projects, bond proceeds or Surplus Funds must be available and their expenditure approved by the Board before construction contracts are submitted for approval.~~

~~Consistent with Board Policy 7015, the following types of contracts are to be submitted to the Board for approval:~~

- ~~1. Construction and Information Technology (IT) contracts and land purchases amounting to one three hundred thousand dollars (\$100300,000) per year or more. If approval of the contract is critical to the schedule of the project, the following exception will be made:~~

~~The Chancellor shall be authorized to approve construction and IT contracts and land purchases above one three hundred thousand dollars (\$100300,000) so long as the Board has authorized the project and compliance with all specifications, bidding and contract procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.~~

- ~~2. Any contract or agreement with an engineer or architect or IT consultant if the fee would exceed seventy one hundred and fifty thousand dollars (\$70150,000). If approval of the contract is critical to the schedule of the project, the following exception will be made:~~

~~The Chancellor shall be authorized to approve engineer or architect or IT consulting contracts above seventy one hundred and fifty thousand dollars (\$70150,000) so long as the Board has authorized the project and compliance with all consultant selection procedures has taken place. Notification of these approvals shall be provided as an information item to the Board at a subsequent meeting.~~

- ~~3. Contract change orders and addenda involving additional expenditure over one hundred and fifty thousand dollars (\$50150,000). Total change order amount shall include increases to architect or engineer fees, construction contract, equipment purchases and all other miscellaneous expenditure items related to that change order. If approval of the change order or addenda is critical to the schedule of the project, change orders involving an expenditure in the range from fifty thousand dollars (\$50,000) up to and including one hundred thousand dollars (\$100,000) may be approved by the Chancellor has the option of approving it as an emergency as defined in Policy 8064. Such approved emergency change orders and addenda and will be provided as an information item at the next Board meeting.~~

~~Once approved by either the Board or the Chancellor, the documents shall be signed by the vendor, the President or Vice President for Administration and Finance, and then by the Chancellor or Vice Chancellor for Finance and Administration, or General Counsel.~~

~~The President or Vice President for Administration and Finance is delegated the responsibility for bidding, negotiating and signing on behalf of the Board the following types of construction and IT contracts and change orders/addenda:~~

- ~~1. Any contract for the construction, alteration, renovation, remodeling, repair, or demolition of any building or other improvement to real property, and any IT systems project, under which payment by the College will not exceed one three hundred thousand dollars (\$100300,000).~~

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

~~POLICY: 8065 Capital Construction & Information Technology; Contracts; Approvals, Forms, Payments, Works of Art~~ Page 2 of 23

- ~~2. Contracts with architects or engineers or IT consultants where the fee will be less than seventy one hundred and fifty thousand dollars (\$70150,000).~~
- ~~3. Contract change orders/addenda involving each additional expenditure under one hundred and fifty thousand dollars (\$50150,000).~~

~~Appropriate bidding/contracting procedures will be followed in all circumstances. Contracts Consistent with Policy 7015, contracts for construction type projects of less more than one hundred thousand dollars (\$100,000), architectural/engineering and IT consulting contracts whereby the fee is less more than seventy one hundred thousand dollars (\$70100,000) and contract change orders and addenda amounting to less more than fifty thousand dollars (\$50,000) shall be reported by the College at the next Board meeting in a format developed by the System Office.~~

FORMS

~~All contracts for construction, IT and other related services in excess of three hundred thousand dollars (\$300,000) will be reviewed by the legal counsel or Vice Chancellor for Facilities and Information Technology prior to submission to the Board for consideration and action. Contract forms developed by the System Office shall may be used for all construction and IT projects and other related services where the cost will be less than one three hundred thousand dollars (\$100300,000). Construction and architect/engineer consultant contracts greater than this amount should utilize the latest applicable American Institute of Architects (AIA) contract form with standard NSCS Long Form provisions added or incorporated to the AIA form. If the contract is for IT products or services, then the NSCS Long Form should be used unless the vendor dictates use of a different form. In such case, the Long Form provisions must be added or incorporated into the form of contract used. See the NSCS Contracts Guidance Publication at (link here)~~

~~A capital construction or IT 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 contained in the request for proposals budget or the available funding for the project. ** (Content from deleted BP 8068.) **~~

~~All contracts shall contain the following clause: Continuance of this contract beyond the limits of funds available shall be contingent upon appropriation or allocation of the necessary funds, and the termination of this contract for lack of funds shall be without penalty. No contract may commit funds for a future fiscal year unless specific funding has been identified in a Legislative appropriation bill, or an appropriate cancellation clause, has been inserted in the contract.~~

Payments ** (More content from deleted BP 8068.) **

~~For construction contracts with phased payments, the payment schedule shall be as follows:~~

- ~~1. Every application of payment shall be based on a portion of the Contract sum, properly allocable to the completed portion of work, and shall be reviewed and payment authorized by the architect/engineer. A retainage of five percent (5%) shall be kept until the project is complete, except that ten percent (10%) retainage shall may be used on projects fully funded by the 309 Task Force for Building Renewal, and small projects, as determined by the College.~~
- ~~2. When the project reaches final completion, the retainage will be paid in full.~~

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 8065 Capital Construction & Information Technology; Contracts; Approvals, Forms, Payments, Works of Art Page 3 of 3

BOARD POLICY – WORKS OF ART *** All content from Policy_8067 moved here. ***

~~At least one percent (1%) minus applicable deductibles of any appropriation for the original construction cost of any public building under the supervision of the Board shall be spent for the acquisition of works of art. Such buildings shall not include repair shops, garages, warehouses or buildings of a utilitarian nature. The work of art may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or may be exhibited by the Board in other public facilities.~~

~~The Board, in consultation with the Nebraska Arts Council, shall determine the amount of money to be made available for the purchase of art for each project under its supervision. The selection of, commissioning of artists for, reviewing of design, execution and placement of, and the acceptance of works of art for each project shall be the responsibility of the Board in consultation with the Nebraska Arts Council.~~

PROCEDURE

~~The President of each College to which an appropriation is made for the construction, expansion, or renovation of a public building will appoint an art selection committee consisting of a minimum of three members for the purpose of advising the President on art for eligible projects.~~

- ~~1. The committee should be established at the earliest practical time after appropriation of design funds. The decision as to whether the art is to be an integral part of the structure, attached to the structure, detached within or outside of the structure, or exhibited in other public facilities should be made prior to the design of the project and shall be made by the President with the advice of the committee and the architect.~~
- ~~2. The committee shall be responsible for advising the President on the type of art; the selection and commissioning of an artist; the design and execution of the proposed work of art; the placement and acceptance of the work of art.~~
- ~~3. For each project which comes under the purview of the Board's policy and these procedures the President shall arrange the following:
 - ~~a) Reporting to the Fiscal, Facilities & Audit Subcommittee of the Board of Trustees prior to any formal action by the Board on the amount of funds to be allocated; the type and placement of art; the commissioning of an artist; and the proposed art design.~~~~

~~An art contract may be conditioned upon later refinements in scope and price and may permit the College in agreement with the artist to make changes in the project without invalidating the contract. Later refinements shall not exceed the scope of the program statement contained in the request for proposals budget for the artwork.~~

- ~~b) Consulting with the Nebraska Arts Council, after the Board of Trustees has been advised on the art and prior to any formal action by the Board. Consultation should cover the College determines the amount of funds available for art; the type, placement and acceptance of art; the selection and commissioning of an artist; and the proposed art design.~~
- ~~e) Obtaining Board approval of funding; the artist; and the proposed art design.~~
- ~~d) Advising the Director of Administrative Services that the requirements of the Statutes pertaining to acquisition of art for public buildings have been met so that warrants may be issued for payment on the project.~~

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 8065 Capital Construction & Information Technology; Contracts;
Approvals, Forms, Payments, Works of Art Page 3 of 3

) Accepting the art.

Legal Reference: RRS 85 304 Board of trustees; powers; enumerated.
RRS 85 306 State Colleges; presidents; duties.
RRS 85 316 State Colleges; funds; contingencies; disbursements; travel expenses
RRS 85 325 Construction projects; board of trustees; powers.

Policy Adopted: 3/11/94
Policy Revised: 6/19/98
Policy Revised: 4/13/00
Policy Revised: 2/12/04
Policy Revised: 9/15/06
Policy Revised: 9/14/07
Policy Revised: 1/15/13
Policy Revised: 3/15/13
Policy Revised: 11/15/13
Policy Revised: 11/7/14
Policy Revised: 6/18/15
Policy Revised: 4/20/18

~~FACILITIES, NEBRASKA STATE COLLEGE SYSTEM~~

~~POLICY: 8068 Capital Construction; Contracts;
Forms, Payments~~

~~Page 1 of 2~~

~~BOARD POLICY~~

~~No capital construction contract for a project costing more than one hundred thousand dollars (\$100,000) may be executed before approval has been granted by the Board or the Chancellor, as stipulated in Policy 8065. After Board approval, the contract will be signed in this order:~~

- ~~1. Contractor~~
- ~~2. President or Vice President for Administration and Finance~~
- ~~3. Chancellor or Vice Chancellor for Finance and Administration or General Counsel~~

~~Form~~

~~If a contract is for labor and material costing less than one hundred thousand dollars (\$100,000), a short form may be used. The short form should include the following elements:~~

- ~~1. Owner is the Board of Trustees of the Nebraska State Colleges doing business as (d.b.a.) _____ State College~~
- ~~2. Detailed Scope of Work~~
- ~~3. Contract Sum~~
- ~~4. Progress Payment Schedule (if applicable)~~
- ~~5. Time of Commencement and Completion~~
- ~~6. Fair Labor Standards Statement~~
- ~~7. Equal Employment Opportunities Statement~~
- ~~8. ADA and Drug-Free Workplace Requirements~~
- ~~9. New Employee Work Eligibility Status~~
- ~~10. Listing of contract documents (attachments/specifications/drawings)~~
- ~~11. Binding Parties statement~~
- ~~12. Signature blocks for contractor and College President~~

~~The latest AIA Abbreviated Form of Agreement Between Owner and Contractor, may be used or the short form document developed by the System Office.~~

~~If the contract is for labor and material costing more than one hundred thousand dollars (\$100,000), the latest AIA contract, Standard Form of Agreement Between Owner and Contractor, shall be used. Attached to the base contract shall be the contractor's proposal form, the Notice to Proceed, general conditions of the contract, supplemental conditions of the contract, certificate of insurance as specified in the bid documents, the index of the specifications for the project, and any other documents deemed a part of the contractual agreement.~~

~~A capital construction 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 contained in the request for proposals.~~

~~All contracts shall contain the following clause: Continuance of this contract beyond the limits of funds available shall be contingent upon appropriation or allocation of the necessary funds, and the termination of this contract for lack of funds shall be without penalty.~~

~~FACILITIES, NEBRASKA STATE COLLEGE SYSTEM~~

~~POLICY: 8068 Capital Construction; Contracts;
Forms, Payments~~

~~Page 2 of 2~~

~~Payments~~

~~For construction contracts with phased payments, the payment schedule shall be as follows:~~

- ~~1. Every application of payment shall be based on a portion of the Contract sum, properly allocable to the completed portion of work, and shall be reviewed and payment authorized by the architect/engineer. A retainage of five percent (5%) shall be kept until the project is complete, except that ten percent (10%) retainage shall be used on projects fully funded by the 309 Task Force for Building Renewal, and small projects, as determined by the College.~~
- ~~2. When the project reaches final completion, the retainage will be paid in full.~~

~~Legal Reference: RRS 85-304 Board of trustees; powers enumerated~~

~~Policy Adopted: 3/11/94
Policy Revised: 9/26/97
Policy Revised: 2/12/04
Policy Revised: 9/15/06
Policy Revised: 11/13/09
Policy Revised: 4/22/10
Policy Revised: 3/15/13
Policy Revised: 6/18/15~~

Nebraska State College System
Comparison of Round One Approval to Round 2 Proposal of Purchasing and Contracting Policies

The following document compares the major changes from the first round of policy revisions approved by the Board in June, and the draft version presented to the Board at the September meeting.

Round One Approval	Round Two Proposal
Policy 7010 - Purchases; Bids; Public Lettings	Policy 7010 - Purchasing of Materials and Equipment
Moved all equipment purchases and IT purchases to 8068.	Moved all equipment back to policy 7010. IT purchases were also moved to 7010 from 8068 and must have appropriate IT approvals per Policy 7018.
	Contracts for Services were moved to Policy 7015.
	Removed the requirement for public bid openings.
	Added an additional formal bid process using written quotes for purchases of \$50,000 to \$150,000 allowing an increase in competitive bid thresholds.
The no bid requirement was increased to \$25,000 from \$5,000.	The no bid requirement has been returned to \$5,000 and not increased to \$25,000.
Informal bid process was increased to range of \$25,000 to \$75,000 from \$5,000 to \$50,000.	Informal bid process has been put back to the \$5,000 to \$50,000 level, and not increased to \$25,000 to \$75,000.
	Added an additional formal bid process using written quotes for purchases of \$50,000 to \$150,000 allowing an increase in competitive bid thresholds.
Competitive bid level was increased from \$50,000 to \$75,000.	Competitive bid level has been increased from \$75,000 to \$150,000.
Policy 7015 - Contracts; Limitations, Exemptions	Policy 7015 - Contracts and Agreements for Services
	The limitations for purchasing materials and equipment have all been moved to 7010. Clarified that this policy relates to contracts and agreements for services and not purchasing which was not previously clear.
Increased the limits for purchases not requiring a contract from \$50,000 to \$75,000 for lodging, airfare, advertisements, and repairs for vehicles, equipment, furnishings, and facilities/grounds and added all maintenance services and all IT products and services.	Repair and maintenance services will follow the thresholds and requirements in the policy. A contract exemption is provided for all maintenance and repair services less than \$25,000 for equipment, vehicles, furnishing, facilities and grounds. Anything above this amount will follow the thresholds and contract requirements found in the policy.
Increased the approval by the Board for advertising contracts from \$50,000 per year to \$300,000.	This is retained in the new policy.

**Nebraska State College System
Comparison of Round One Approval to Round 2 Proposal of Purchasing and Contracting Policies**

Increased the board approval level approval of contracts from \$100,000 to \$300,000 for the purchase of installation services including repairs or maintenance agreements or movable equipment including information technology products and services, licenses, and maintenance agreements.	All contracts over \$300,000 require board approval which is what was required in Round 1.
Added the following: Change orders, addenda, and amendments to contracts require Board approval or Authorization for the Chancellor to approve, when they reach one hundred fifty thousand dollars (\$150,000) or more.	Board approval remains at \$300,000 for the initial contract with amendments over \$50,000 reported to the Board.
Reporting to Board required for all contracts over \$100,000 and all change orders, addenda and amendments of \$50,000 or more.	All contracts over \$150,000 and subsequent change orders, addenda and amendments over \$50,000 shall be reported to the Board. 6) Consultant contract thresholds were added to this policy and are no longer in 7016.
	Consultant contract thresholds were added to this policy and are no longer in 7016.
Policy 7016 - Contracts; Consulting Services	Content moved to 7015
Increased the threshold for approvals from \$35,000 to \$75,00 for presidents approval; from \$75,000 to \$150,000 for Chancellor approval and Board approval from \$75,000 to \$150,000.	The content of Policy 7016 moved to 7015. The new consultant contract thresholds in 7016 were retained.
Moved reporting of all consultant contracts to \$100,000.	Consultant contracts follow the same thresholds for reporting as all contracts, over \$150,000 and any addendum over \$50,000.
Policy 8064 - Capital Construction; Bids	Policy 8064 - Capital Construction, Facility Maintenance and Repair Contracts
	Clarified that the policy applies to maintenance and repair as do the thresholds.
Moved the exception on bidding maintenance and repair to \$75,000 from \$50,000.	Exception on bidding for maintenance and repair is retained at \$50,000.
Open solicitation moved from \$30,000 to \$50,000. Informal bids moved from from a range of \$30,000-\$100,000 to \$50,000-\$150,000. Competitive bids were moved from \$100,000 to \$150,000.	Thresholds are maintained from Round 1.
Policy 8065 - Capital Construction; Contracts; Approvals	Content moved to 8064.
Increase level of construction contract approval by the Board from \$100,000 to \$300,000.	Retained approval levels as identified in Round 1 but moved to 8064.
Increased the level of approval of the Board for architect or engineer from \$70,000 to \$150,000.	

Nebraska State College System
Comparison of Round One Approval to Round 2 Proposal of Purchasing and Contracting Policies

Increased approval of contract change orders, addenda, or amendments by the Board from \$50,000 to \$150,000.		
Increased approval by the campus for construction, alteration, renovation, remodeling, repair, or demolition from \$100,000 to \$300,000.		
Increased campus approval of contracts with architects or engineers from \$70,000 to \$150,000.		
Increased campus approval of contract change orders from \$50,000 to \$150,000.		
Policy 8066 - Capital Construction; Contracts; Professional Consulting Services		
No major changes made to policy.		Policy 8066 - Professional Consulting Services Related to Capital Construction
		Only formatting changes from Round 1.
Policy 8067 - Capital Construction: Contracts; Works of Art		
No major changes made to policy.		Policy 8067 - Works of Art Related to Capital Construction
		Only formatting changes from Round 1.
Policy 8068 - Information Technology (IT) & All Procurement		
		Policy 7018 - Information Technology (IT) Purchasing and Services Approval
Policy was changed to cover the procurement of all types of of Technology Resources including devices, IT equipment, hardware, software, licenses, subscriptions, and all IT products and services and IT consulting. The policy was also expanded to include the procurement of all types of equipment not associated with IT or construction, including furnishings, fixtures, vehicles and machinery.		IT materials and equipment are now included in Policy 7010, or 7015 if a service or contract. Policy 7018 now clarifies what falls under IT and requires approval of all IT related purchases and services as deemed necessary by the College.
Sole source, emergency, and exceptions to bidding were brought over from 7010.		These are retained in 7010.
Added a sole source exception for new or replacement systems related to successful pilot projects.		The pilot project language was not carried forward as it could mean major systems are not bid.
No bid requirements for any IT resources and equipment less than \$50,000. IT and equipment items between \$50,000 up to \$150,000 require three quotations.		Bid levels under 7010 are: Less than \$5,000 - no bid; \$5,000 to \$50,000 - informal bid; \$50,000 but less than \$150,000 - formal bid process; \$150,000 or more - Competitive sealed bids.
RFP required on all IT and equipment purchases and services of \$150,000 or more.		Retained RFP requirement at \$150,000 but removed requirement for formal bid opening in 7010.