

BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES
ITEMS FOR DISCUSSION AND ACTION\FISCAL, FACILITIES AND AUDIT

ACTION: **First and Final Round Approval of Revisions and Renumbering of Board Policies 7000 - Budgets; 7001 - Budgets, Operating, Request, Adoption, Evaluation and Control; 7011 - Purchases, Bids, Protest, and 7012 - Lease-Purchase Agreements**

The following policies have been reviewed by the colleges and legal counsel and put in the new format:

Current Policy Number & Title	New Number & Title
7000 - Budgets	6200 - Budgets
7001 - Budgets; Operating, Requests, Adoption, Evaluation and Control	6200 - Budgets
7011 - Purchases; Bids; Protests	6403 - Bid Protests
7012 - Lease-Purchase Agreements	6402 - Lease Purchase Agreements

The changes to the polices are not considered to be substantive. Section 5 that is being removed from 6200 is a carryover from policy 7001, and is already addressed in broader terms in Policy 5101.

The renumbering reflects the desire of the chief business officers to have 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. The technology policies will be moved into the 7000 series over time as the policy manual updates and reformatting is completed over the next year.

The System Office recommends approval of the Revisions and Renumbering of Board Policies in the 7000 Area.

ATTACHMENTS:

- Board Policy 6200 (PDF)
- Board Policy 6403 (PDF)
- Board Policy 6402 (PDF)

Board of Trustees of the Nebraska State Colleges

Fiscal Operations

POLICY
NAME: Budgets

POLICY
NUMBER: ~~7000-70016200~~

A. PURPOSE

To provide direction on budget development, the budget allocation process and the development of operating budgets.

B. DEFINITIONS

1. Deficit Budget Request – A formal request to the Executive Branch to increase or decrease any fund source for any budget program for the biennium in progress.

C. POLICY

1. Biennial Budget Requests

The biennial budget requests shall be presented on forms and in a manner directed by the System Office. System's Chancellor. All general operating budget requests for each Ccollege and the System Office must be approved by the Board prior to being submitted by the System Office to the appropriate agencies of the executive and legislative branches of state government, and the Coordinating Commission for Postsecondary Education.

2. Distribution of Funds

Based upon the Legislative appropriation, the Board will allocate the operational funds to the State Colleges and the System Office in an equitable manner. The Board may taking into consideration the adequacy and fairness of the level of the funding levels at each institution to carry out its role and mission when making funding allocations.

3. Operating Budgets

3.1. Academic Needs

The academic requirements of the State Colleges shall drive the operational and capital construction budgets. Nothing in the budgets shall be deemed sacrosanct, and no part of the State College's operations will

be immune from scrutiny or possible reallocation if evaluations determine that such action is necessary for an efficient and effective operation.

3.2. Budget Approval

~~At the meeting subsequent to the distribution of the funds, the colleges and the System Office will submit proposed operating budgets to the Board for approval based on the funds distribution approved by the Board. for the new fiscal year to the Board for approval.~~

3.3. Revised Operating Budgets

If needed, revised budgets for the current fiscal year may be submitted to the Board for approval. Revised budgets ~~requests~~ must clearly identify any additional funds being added to the budget the funding source and be accompanied by a full explanation of the proposed program budget adjustments. If revenue or expenditure adjustments are made to the operating budget during the year, a final budget reflecting those changes must be approved by the Board. ~~for use by the auditor in examining the financial statements of each college.~~

4. Deficit Budget Requests

If deficit requests for specific emergency funding become necessary, the State Colleges and the System Office shall first submit the proposals to the Board for evaluation. If approved by the Board, information on the requests will be prepared and forwarded to the Governor's Budget Office, the Legislative Fiscal Office and the Coordinating Commission by the System Office before second-round approval.

~~5. Financial Evaluation~~

~~At the close of each fiscal year, the Chancellor will review with the Presidents the year's financial activity. Both process and achievement will be considered. This review and evaluation will permit recognition of successful achievement, determine accuracy of estimations, identify deviations from short and long range plans and assist efforts to improve in the general budgeting and allocation process.~~

SOURCE:

Legal References: RRS 85-316 – State Colleges; fFunds; cContingencies; dDisbursements; tTravel eExpenses.

RRS 81-126 - Governor; recommendations as to deficiency funding; bill form.

Policy Adopted: March 1994

Policy Revised: September 2006, January 2021

Board of Trustees of the Nebraska State Colleges

Policy Category

POLICY NAME: Lease Purchase Agreements

POLICY NUMBER: 70126402

A. PURPOSE

To provide guidance on when a lease purchase agreement may be used to procure materials.

B. DEFINITIONS

1. Lease Purchase Agreement – When a College (lessee) enters into an agreement to procure materials, equipment, facilities, or other investments that will be paid for over a period of time to the vendor (lessor).

C. POLICY

1. **Use of Lease Purchase Agreements**

Periodically it may be necessary or advantageous for the ~~State~~ Colleges or System Office to enter into ~~Lease-Purchase agreements~~contracts for the procurement of equipment, energy management projects, facilities management systems, vehicles, furnishings, fixtures, facilities, and other essential types of purchases.

2. **Thresholds for Lease Purchase Agreements**

All purchases shall conform to bidding thresholds as well as the following lease purchase thresholds:

2.1. Less than \$25,000

- ~~Lease-Purchase Agreements of less than \$25,000 may~~ College agreements shall be ~~approved~~ signed by the College President and ~~signed by the President or the~~ Vice President for Administration and Finance
- ~~All System Office Lease-Purchase Agreements~~ System Office agreements shall be signed by the Chancellor, ~~or~~ Vice Chancellor for Finance and Administration, ~~or~~ General Counsel.
- Must be reported to the Board

2.2. From \$25,000 but less than \$50,000

- ~~Lease Purchase Agreements, in which the financing amount ranges from \$25,000 to \$50,000, shall be approved reviewed first with System Office staff. Upon approval by the Chancellor, and signed by the Chancellor or Vice Chancellor for Finance and Administration, or General Counsel~~
- College agreements shall be signed by the President or Vice President for Administration and Finance, ~~and then by the Chancellor or Vice Chancellor for Finance and Administration or General Counsel.~~
- Must be reported to the Board

2.3. \$50,000 or more

The following process shall be followed for all such ~~contracts~~agreements whereby the financing amount ~~is exceeds~~ \$50,000 or more:

- Discuss proposed purchase with DAS representative for the State of Nebraska's Master Lease Program and obtain financial data for using that program;
- Solicit information on other available Lease-Purchase programs and analyze the advantages/disadvantages of each program that is appropriate for use ~~by the institution~~;
- Submit material to System Office ~~staff~~ with recommendation on designated program, including draft of proposed agreement which recognizes the following:
 - Since the ~~State~~ Colleges are not permitted, by law, to mortgage or grant a security interest in real or personal property to which it has title, the title to the property must be vested in the lessor until such time as all of the rental payments are made.
 - The ~~State~~ Colleges may not permit title to any equipment, fixture, etc. to remain in another party ~~ies name~~ if its removal would impair the integrity of the building to which it is attached or in which it is housed.
 - The lease-purchase agreement for qualifying projects would be subject to an annual appropriation and be annually renewable.
 - Unless there are other restrictions imposed by other documents, there are no restrictions on the source of funds that may be used for payment of the colleges' obligation under the ~~agreement~~contract. However, the Board ~~of Trustees~~ must specifically approve the source of funds intended to be used.

- The ~~State~~ Colleges may combine various sources of funds for lease purchase financing, but it must be recognized that failure of any one of the sources might cause a default for the entire ~~agreementcontract.~~
- Prepare recommendation to be submitted to the Board ~~of Trustees~~ for approval.
- ~~The Agreement, once approved by the Board, shall be signed by the Chancellor or Vice Chancellor for Finance and Administration, or General Counsel.~~
- ~~College agreements shall be signed by the President or Vice President for Administration and Finance and then by the Chancellor or Vice Chancellor for Finance and Administration, or General Counsel.~~
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~~All College Lease Purchase Agreements shall be reported to the Board by the College. Any System Office Lease Purchase Agreements shall be reported to the Board by the System Office.~~

SOURCE:

Legal References: RRS 81-1107 – ~~State Director of Administrative Departments Services; duties, powers and responsibilities. Lease Purchase Agreements~~

Policy Adopted: June 1998

Policy Revised: September 2006, March 2013, January 2021

Board of Trustees of the Nebraska State Colleges

Fiscal Operations

POLICY NAME: ~~Purchases; Bids; Protest~~ Bid Protests

POLICY NUMBER: 70116403

A. PURPOSE

To provide vendors with a process to protest bid awards.

B. DEFINITIONS

1. Competitive Sealed Bids: Price quotations secured from vendors by means of an invitation for bids (competitive sealed bidding) or through a Request for Proposal (competitive negotiation).
2. Request for Proposal: An RFP is a document that announces a project, describes the scope of the project, details criteria for bids, and solicits bids from vendors.

C. POLICY

1. **Protest Opportunities**

A bidder that has submitted a valid bid may protest matters Board Policy 7011 is applicable for involving ~~all~~ purchases and service contracts for which formal competitive sealed bids or competitive negotiations ~~were~~ are utilized, ~~as per Board Policies 7010, 7016, 8064, 8066 and 8071.~~

2. **Protest Process**

2.1. Filing Protest

Procedures for filing a protest by a vendor or service provider relating to a bid award are as follows:

- Within ten (10) calendar days of the bidder notification, a protest letter must be received by the Nebraska State College System in care of the Vice Chancellor of Finance and Administration. The protest letter must identify:
 - The bid and specific issues that are disputed;
 - The requested remedy or action, and,

- A contact name and mailing address to which a response can be sent.

- The protests must be mailed to:

Vice Chancellor of Finance and Administration
Nebraska State College System
1327 H Street, Suite 200
Lincoln, NE 68508

2.2. Protest Response

A response regarding the protest will be sent to the protestor by the Vice Chancellor of Finance and Administration within ten (10) calendar days of receipt of the written protest letter.

2.3. Appeals

If the response does not satisfy the protestor, a written request for a meeting with the Chancellor may be requested within ten (10) calendar days of receipt of the response from the Vice Chancellor of Finance and Administration.

- The request must identify:
 - The bid and specific issues disputed;
 - The requested remedy or action, and
 - A contact name and mailing address to which a response can be sent.
- Requests for a meeting must be mailed to:

Chancellor
Nebraska State College System
1327 H Street, Suite 200
Lincoln, NE 68508

2.4. Meeting and Final Ruling

A meeting will be scheduled to discuss the protest. A final written final decision will be sent to the protestor within fifteen (15) calendar days following the meeting, unless additional time is necessary to fully examine the issues presented, but shall not exceed thirty (30) days.-

3. Protest Notification

The above procedures, or a notice of its availability, and a statement that protests must be filed in writing within ten (10) calendar days of the bid notification, are to

be communicated to all bidders responding to invitations for bids (competitive sealed bidding) and requests for proposals (competitive negotiation). This requirement shall also be satisfied by including the same information in the invitation for bids or request for proposal (RFPs).

3.1 Federal Grants

Additionally, grants which utilize federal monies shall require that recipients of such grants (sub-grantees) have protest procedures in place in accordance with 34 CFR 80.36.

SOURCE:

Policy Adopted: June 2019

Policy Revised: January 2021