

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 to Board Policies 8060; Capital Construction; Budget Requests; Planning, Design and Construction Documents; 8064; Capital Construction, Facility Maintenance and Repair Contracts and 8066 Professional Consulting Services Related to Capital Construction**

Revisions to these three capital construction policies are necessitated by periodic statutory changes to thresholds regarding program statement applicability and when it is necessary to engage the formal process for selecting architects and engineers. These statutory thresholds are modified for inflation every four years by the Department of Administrative Services, State Building Division.

Other proposed revisions that are substantive include modifying the current two capital construction thresholds in Policy 8060 to be unified at \$2.0 million dollars, allowing program statements and design developments for the same project to be approved simultaneously at one Board meeting, and allowing an exception for CCBR program statement Board approval. Significant revisions for Policy 8064 include the addition of several exceptions to bidding requirements that were inadvertently left out of the policy at the last revision, and the policy definitions have been updated.

The System Office recommends approval of the Revisions to Board Policies 8060; 8064 and 8066 Capital Construction.

ATTACHMENTS:

- Revisions to Board Policy 8060 (PDF)
- Revisions to Board Policy 8064 (PDF)
- Revisions to Board Policy 8066 (PDF)

Board of Trustees of the Nebraska State Colleges

Facilities

POLICY NAME: Capital Construction; Budget Requests; Planning, Design and Construction Documents

POLICY NUMBER: 8060

A. PURPOSE

To define the term, Capital Construction Project, and to specify approval and reporting requirements for such projects. To provide a process for the Colleges to follow for submission of Capital Construction Budget Requests (CCBR), and to provide requirements for Capital Construction Project planning and construction documents.

A.B. DEFINITIONS

- 1. Capital Construction Project:** For both state-supported and revenue bond facility projects, a *Capital Construction Project* is defined as a project estimated at ~~five hundred thousand~~two million dollars (~~\$500,000~~2,000,000) total project cost and above, for renovation and new construction of programmatic spaces. This threshold does not include costs of the project attributed to fire and life safety upgrades, Americans with Disability Act (ADA) requirements, deferred repair and renewal work and utilities infrastructure, and energy conservation improvements. Majority funded LB 309 Task Force for Building Renewal projects, and Auxiliary Contingency Maintenance projects, are excluded regardless of project size. Campus site improvements are considered a *Capital Construction Project* when reaching the threshold stated above, after subtracting utilities infrastructure costs.

The Vice Chancellor for Facilities (VCF) determines whether a project qualifies as *Capital Construction Project* based on information provided by the College, and if applicable, by the project design consultants.

B.C. POLICY

1. Capital Construction Board Approval and Reports

- All projects meeting the ~~Section 1~~ definition of a *Capital Construction Project* will require Board approval, and subsequent quarterly status reports to the Board, per Board Policy 8050. Non-Capital Construction LB 309 Task Force

and Auxiliary Contingency Maintenance projects are Board approved and reported per Board Policies 8050 and 90069101.

- When a *Capital Construction Project* reaches two million dollars (\$2,000,000) or more in estimated total project costs for programmatic spaces, Board approval of a Program Statement is required. See *Section 54*. This Program Statement approval requirement applies also to biennial Capital Construction Budget Requests (CCBR) seeking *state general funds* equal to or greater than the established State Building Division (SBD) Program Statement requirement (currently seven-eight hundred five-ninety-six thousand dollars [\$705,000896,000] until January of 20222026).

2. Capital Construction Budget Requests (CCBR)

- The CCBR is a biennial set of requests for state general funds, submitted by the Nebraska State College System (NSCS) to the state of Nebraska every September 15th of even numbered years. It includes requests for major renovation and new construction projects, as well as LB 309 Task Force for Building Renewal requests. It does NOT apply to revenue bond building or Auxiliary Contingency Maintenance projects. After the NSCS CCBR is approved by the Board, the System Office is responsible for submitting the NSCS CCBR to applicable state offices by the published state deadlines.
- CCBR preliminary information (not including LB 309 Task Force requests information) is due to the Vice Chancellor for Facilities (VCF) by December 1st of odd numbered years. This information is reviewed by the Fiscal, Facilities and Audit (FFA) Committee and the Chancellor. The CCBR preliminary information (excludes estimated costs and priorities) is submitted to the Board for approval at the subsequent January Board meeting.
- Detailed cost estimates and narratives of approved preliminary *Capital Construction Project* requests are submitted to the Vice Chancellor for Facilities (VCF) by March 31st of even numbered years. After review, the Chancellor and FFA Committee recommend the final NSCS CCBR, with priorities and total project costs, for approval at the subsequent June Board meeting. CCBR Program Statements must be approved by the Board no later than at the June Board meeting, unless an exception is allowed by the Vice Chancellor for Facilities.
- Program Statements approved two (2) years earlier or before do not need another approval by the Board, unless there is a change in scope as defined by the Coordinating Commission for Postsecondary Education (CCPE), and as determined by the Vice Chancellor for Facilities (VCF). Simple adjustments of project budgets to account for inflation can be made without modifying the Program Statements when these adjustments are accounted for in the final NSCS CCBR as approved by the Board.
- When a CCBR request is a major utilities or infrastructure project, which does not propose renovations or additions to programmatic spaces, an engineering study may be submitted to the state in place of a Program Statement.

Engineering studies do not require Board approval, but are used as Board information to approve a utilities infrastructure project in the NSCS CCBR.

3. Need Statements

- A Need Statement is a planning document for renovation or new construction of programmatic spaces when a Program Statement is not required. For any CCBR renovation or addition project (excluding LB 309 Task Force requests) when the estimated total project cost is below the SBD Program Statement threshold stated in *Section 21*, only a Need Statement is required to be submitted with the CCBR.
- Need Statements do not require Board approval, but are used as Board information for approving CCBR project requests, or for approving *Capital Construction Projects* that do not meet a requirement for a Program Statement.
- The Need Statement template can be found on the NSCS website by clicking here <https://www.nscs.edu/information-for/system-resources/facilities-projects>.

4. Program Statements

- A Program Statement is a planning document for renovation or new construction of programmatic spaces that details the scope of the proposed space modifications and associated construction and provides a thorough total project budget estimate. Program Statements are typically developed by architecture/engineering consulting firms using program and facilities information provided by the College. Program Statements are required for Board approval of *Capital Construction Projects* per *Section 21*.
- When preparing a Program Statement, see also the requirements of *Board Policy 8036; Facilities; Planning for Technology*.
- Program Statements are presented by the project design consulting firm to the Board for the purpose of obtaining Board approval. [This Program Statement presentation and approval item may be combined with the Design Development for the project when necessitated by the project schedule and when funding for construction is imminent. See Section 6 for Design Development documents phase.](#)
- The Vice Chancellor for Facilities (VCF) is responsible for submitting Program Statements to applicable state offices for review, and to the CCPE for approval.
- The Program Statement template can be found on the NSCS website by clicking here <https://www.nscs.edu/information-for/system-resources/facilities-projects>.

5. Schematic Design

- The Schematic Design phase typically starts once adequate funding for the project is in place, and this phase is intended to validate or modify Program Statement assumptions, consider alternative design layouts, and eventually arrive at schematic floor plans, building elevations, and other final Schematic Design documents before proceeding to the Design Development phase.
- The project design team comprised of College and System Office personnel, and others as appropriate, approves the final Schematic Design documents based on consistency with the Program Statement and total project cost budget.

6. Design Development

- The Design Development phase refines and elaborates on the Schematic Design documents and creates drawings that serve as a basis for the development of construction bid documents. Programmatic spaces, floor plans and building elevations are modified and updated based on more defined design requirements, and further refinement of construction systems and materials.
- For any *Capital Construction Project* that requires a Program Statement, the final Design Development documents for that project also require presentation to the Board, using the same procedures as described in [Section 54, and may be combined with the Program Statement presentation/Board approval item, per that same section.](#)
- The Design Development document template can be found on the NSCS website by clicking here <https://www.nscs.edu/information-for/system-resources/facilities-projects>.

7. Construction Documents

- Once the Design Development documents are approved by the Board, construction documents are developed for the purpose of obtaining bids. For *Construction Manager at Risk* projects, the bids are used to establish the *Guaranteed Maximum Price (GMP)*. For additional information, see *Board Policy 8071*. Reviewing and approving construction documents are delegated to the project's design team described in [Section 56](#).

For additional guidance on *Board Policy 8060* and *Capital Construction Projects*, click here <https://www.nscs.edu/information-for/system-resources/facilities-projects>.

For specific construction bidding applicability, [contracts guidance](#), and procedures, see *Board Policy 8064; Capital Construction, Facility Maintenance and Repair Contracts, and Board Policies 8066, 8067, and 8071.*

~~For *Capital Construction* contracts guidance and procedures, see *Board Policies 8065 through 8068.*~~

For completion of *Capital Construction Projects*, see *Board Policy 8069; Capital Construction; Inspections; Substantial Completion; Final Completion*.

FORMS/APPENDICES:

None

SOURCE:

Legal Reference: RRS 85-411 Campus buildings and facilities; board;
powers

Policy Adopted: March 1994

Policy Revised: September 2006, July 2020, August 2020, March 2021, April 2022, June 2022

Board of Trustees of the Nebraska State Colleges

Facilities

POLICY NAME: Capital Construction, Facility Maintenance and Repair Contracts

POLICY 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 upgrades, replacements of facility components, 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 email from the vendor.
4. **Competitive Sealed Bids:** ~~Price quotations~~ Bids or proposals secured from contractors or vendors by means of an advertised public notice bid solicitation or Request for Proposal (RFP) or Bid Proposal form. An RFP is a document that ~~announces a project~~, describes the scope of the project or service, details criteria for bids, and solicits bids ~~from vendors~~. A minimum of fifteen (15) calendar days shall elapse between the time the public notice or 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 emails received by the institution are not allowed during this competitive sealed process.
5. **Facility or Facilities:** Any buildings or structures, above or below ground. May also refer to campus grounds, landscaping, and utility systems.
- 4.6. **Capital Construction Project:** A project estimated at \$2,000,000 total project cost and above for renovation and new construction of programmatic spaces, per Board Policy 8060.

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 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 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 309 funds.
- 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 fifty thousand dollars (\$150,000).
- Contract change orders, addenda and amendments involving each additional expenditure under one hundred 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 amounting to three hundred thousand dollars (\$300,000) or more.
- Any contract with an engineer or architect where the fee will be one hundred fifty thousand dollars (\$150,000) or more.
- Contract change orders and addenda involving additional expenditure of one hundred 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 President or VPAF, and then by the Chancellor, Vice Chancellor for Finance and Administration (~~VCAF~~)(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 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 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 contracts of one hundred 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 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 details below must be followed when using a competitive sealed 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;
 - 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 produce usability and user requirements; and
- 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~~kept on file by the College 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 NSCS always reserves the right to reject any or all bids.

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.

- Purchasing from a previously competitively bid government contract, including the State of Nebraska, the University of Nebraska System, or a multistate compact contract
- When pricing has been established by the federal General Services Administration
- Utilities and fuels, including woodchips
- Repairs of less than fifty thousand dollars (\$50,000)
- Advertising for facility projects
- Facility maintenance agreements

~~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 the Vice Chancellor for Facilities (VCF) 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 VCF 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 one hundred percent (100%) of the contract sum and 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 priced 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 (50%) 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 nation 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 of 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) or more will be reviewed by General Counsel or VCF 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-three~~ hundred thousand dollars (~~\$100300~~,000).
- If the project will be ~~one-three~~ hundred thousand dollars (~~\$100300~~,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 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 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.

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 (1) or more persons that meet the definition of a resident disabled veteran. The management and daily

~~fussiness~~ operations of the public business must also be controlled by one (1) 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.

5.16 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.

FORMS/APPENDICES:

None

SOURCE:

| | | |
|-------------------------|---------------|---|
| 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, February 2022, April 2022, June 2022

Board of Trustees of the Nebraska State Colleges

Facilities

POLICY NAME: Professional Consulting Services Related to Capital Construction

POLICY 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 construction costs are greater than ~~seven-eight~~ hundred ~~five-ninety-six~~ thousand dollars (~~\$705896,000~~) and consulting fees are greater than ~~seventy-eighty-nine~~ thousand ~~and five hundred~~ dollars (~~\$70,00089,500~~):

- 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-eight~~ hundred ~~five-ninety-six~~ thousand dollars [~~\$705896,000~~] until January 1, ~~20222026~~) 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-eighty-nine~~ thousand ~~and five hundred~~ dollars [~~\$70,00089,500~~] until January 1, ~~20222026~~).

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 (3) or four (4) firms for interviews by the selection committee. It is suggested that the local committee include the leadership 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 and 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; and
- 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 (VCF) 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 (DAS) "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~~ two hundred ~~fifty~~ thousand dollars (~~\$15,000~~200,000) in fees, the consultant selection procedures in Sections 3 and 4 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.

FORMS/APPENDICES:

None

SOURCE:

| | | |
|-------------------------|----------------------|---|
| Legal Reference: | RRS 81-1108.43 | Capital construction project; prohibited acts; exceptions; warrant; when issued |
| | RRS 81-1701 et. 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: 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, April 2022, June 2022