

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 8066

**Capital Construction; Contracts;
Professional Consulting Services**

Page 1 of 3

BOARD POLICY

For consulting services related to construction projects, the State College System will follow the procedures established by the Nebraska Consultant's Competitive Negotiation Act (RRS 81-1701 through 81-1721) in its selection of professionals needed for capital construction projects.

PROCEDURE

For projects whose basic construction costs are estimated to be more than the limit established in state statute §§81-1108.43 and periodically adjusted by the State Building Division (currently seven hundred five thousand dollars [\$705,000] until January 1, 2022) and the estimated fee is anticipated to exceed the limit established in state statute §§81-1712 and periodically adjusted by the State Building Division (currently seventy thousand dollars [\$70,000] until January 1, 2022), except in cases of public emergencies so certified by the President, and in cases where the DAS "Open End Agreement" is utilized, the following procedures shall be followed:

1. A Request for Proposal 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 a week (weekdays only) for three (3) consecutive weeks in a publication based in or near the locality of the project and in other widely circulated publications as deemed necessary by the College. A timeline shall be noted in the advertisement for letters of interest to be submitted by the professional consultants. The College shall then notify the interested firms of the deadline for submittal of proposals and direct the firms to include specific forms/information with their proposals.
2. The President is authorized to appoint a campus 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 Chair/Dean of the College/Division/Department for which the facility is being constructed/renovated; the College's Vice President of Administration; the College Director of Physical Plant; and others deemed appropriate by the President.

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

- a) Demonstrated interest in project
 - b) Relevant experience in projects of similar nature
 - c) Background of key personnel to be involved in project
 - d) Planned use of outside consultants
 - e) Approach in working with campus staff, students, faculty
 - f) Past performance in meeting budget limits and time schedules
 - g) Evaluation of firm's work on other state projects
 - h) Evaluation of proposal
 - i) Current workload and past volume of work for State Colleges to promote an equitable distribution of contracts among qualified firms
3. The President shall recommend the membership of the Selection Committee to the Board of Trustees for approval. Included as members of the committee will be a Board of Trustee member; the Chair of the Fiscal, Facilities & Audit Committee; the Vice Chancellor for Facilities and Information Technology; and appropriate campus personnel as desired by the President. If the consultant being sought is an engineer, a licensed engineer shall also be on the selection committee; if architectural firms are being interviewed, the selection committee shall have one member who is a certified architect. NOTE: If the project is a state-funded project, a representative of the State Building Division shall also serve on the selection committee.

FACILITIES, NEBRASKA STATE COLLEGE SYSTEM

POLICY: 8066

**Capital Construction; Contracts;
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Page 2 of 3

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4. 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 shall be similar to that identified in the preceding paragraph 2.
 5. Unless time is not available, each firm shall be interviewed for one (1) hour, including questions from the selection committee. 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 first-, second- and third-place firms. The College shall then negotiate a contract, in consultation with System Office staff, with the selected firm, keeping in mind the budget for professional fees. If the negotiations are concluded within the budget limitations and all other issues resolved, a recommendation shall be made by the President to the members of the Fiscal, Facilities & Audit Committee who shall then submit a recommendation to the Board of Trustees for approval. 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.

The Presidents are delegated the responsibility for the selection process and for negotiating on behalf of the Board and reporting the same to them, contracts for architectural or engineering services, under seventy thousand dollars (\$70,000) which have been included in the operations budget, revenue bond budget or capital construction budgets. These contracts shall be signed by the President or Vice President for Administration and Finance. The College will include information on these contracts in its subsequent report to the Board.

For contracts above seventy thousand dollars (\$70,000), once approved by the Board, or the Chancellor as per Policy 8065, the contract shall be signed by the consultant, President or Vice President for Administration and Finance, and then by the Chancellor or Vice Chancellor for Finance and Administration or General Counsel.

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 scope of the program statement contained in the request for proposals.

The Board of Trustees/Professional Consultants form shall be used for all agreements entered into by the Colleges. The short form may be used for services to develop a Program Statement. The long form must be used for all other professional design phases of a construction project.

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, which expires in January of 2021, 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.

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POLICY: 8066

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Page 3 of 3

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

Legal Reference: RRS 81-1108.43 Requirement to hire consultant for design
RRS 81-1701 through Nebraska Consultant's Competitive Negotiation Act
RRS 81-1721
RRS 85-411 Campus buildings and facilities; board; powers
RRS 85-306 State college; president; duties; responsible to board
RRS 85-304 Board of Trustees; powers; enumerated

Policy Adopted: 3/11/94
Policy Revised: 6/19/98
Policy Revised: 9/10/02
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: 11/15/13
Policy Revised: 11/7/14
Policy Revised: 11/13/15
Policy Revised: 3/24/17
Policy Revised: 4/20/18