

# Board of Trustees of the Nebraska State Colleges

## Business and Finance

POLICY NAME: Purchasing of Materials and Equipment

POLICY NUMBER: 6400

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### **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, with the exception of fixed equipment, hereinafter referred to as “materials”.

Fixed equipment should be purchased according to policy 8064.

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 online, 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 email.
- 3. Competitive Sealed Bids:** Price quotations secured from vendors by means of an advertised Request for Proposal (RFP). An 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 matter, time and date specified if the RFP. Facsimile quotes or emails 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 all fall within information technology.
- 5. Emergency:** 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.

**6. Fixed Equipment:** Equipment that is affixed to the facility and is not movable.

## **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 (3) informal bids are required when the total of a purchase 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 dollars (\$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, 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 and 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

## 3.1. Minimum Number of Bidders

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 or any rival bid.

### 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; and
- 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 multistate compact contract
- When pricing has been established by the federal General Services Administration

- Utilities and fuels, including woodchips
- Lodging and airfare

#### 4.2 Emergency

Emergency purchases shall be documented by the College and submitted by the President, Vice President for Administration and Finance (VPAF), or Vice President for Academic Affairs (VPAA) to the Chancellor for approval. 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 (VCF), Chief Information Officer (CIO) 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 state 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

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 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. 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.

**FORMS/APPENDICES:**

None

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**SOURCE:**

<b>Legal Reference:</b>	Rev. Neb. Stat. 4-114	Public employer and public contractor; register with and use federal immigration verification system; Department of Labor; duties
	Rev. Neb. Stat. 73-107	Resident disabled veteran or business located in designated enterprise zone; preference; contract not in compliance with section; null and void

**Policy Adopted:** January 1977

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