



STATE OF NEBRASKA VENDOR MANUAL

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VENDOR INFORMATION

1. PURPOSE AND POLICIES

The spending of public tax dollars is an issue that ranks high in public opinion and sentiment. An effective public procurement process reduces the cost of government and directly improves the quality of services rendered by state agencies. For agencies, procurement is a vital function, supporting programs by the acquisition of supplies and services. For potential contractors, it is an opportunity to provide supplies and services to government agencies.

Neb. Rev. Stat. § 81-1118 establishes the State Purchasing Bureau (SPB) under the Materiel Division of the Department of Administrative Services (MD-AS) and assigns responsibility for the procurement process to SPB. SPB adheres to the following purposes as established by § 81-1118.06:

- To increase public confidence in the procedures followed in public procurement;
- To ensure the fair and equitable treatment of all persons who deal with the procurement process of this state;
- To provide increased economy in state procurement activities and maximize to the fullest extent practicable the purchasing value of the public funds of the state;
- To foster effective, broad-based competition within the free enterprise system; and
- To provide safeguards for the maintenance of a procurement system of quality and integrity

2. OVERVIEW OF PUBLIC CONTRACTING

These guidelines were developed to assist vendors wishing to do business with the State of Nebraska. Laws and processes for the procurement of goods and services are different between states. Vendors should familiarize themselves with the State of Nebraska's (the State) procurement processes.

Vendors are encouraged to contact SPB with any questions regarding the procurement process.

Procurement is a major function of the State. Processes have been developed to ensure maximum competition and to ensure fair and equitable treatment of all participants in the procurement process.

Before submitting a bid vendors should:

- Review the RFP/ITB thoroughly before responding and provide all items required in the specifications. The bid must be in accordance with the RFP/ITB. Vendors may not change bids after the RFP/ITB due date and time. In each RFP/ITB are instructions, contact information, and a schedule of events which includes a timeline for asking questions.

- Watch the SPB website for any addenda. There are times when the state may change the requirements of a RFP/ITB. Changes are issued as an addenda. The vendor is responsible for obtaining the addenda and adjusting pricing as may be required.
- Submit bids in a timely manner. Do not wait until the last minute. The State is not responsible for any late responses. Late responses are not accepted.
- Ensure the bid is signed in an indelible manner. Bid that are not signed will not be rejected.

3. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION Requirements

- Bidders should be authorized to do business in the State of Nebraska.
- It is the bidder's responsibility to comply with the Secretary of State's registration requirements.
- Any bidder who is issued an Intent to Award will be required to certify that it has so complied and produce a true and exact copy of its current (within 90 calendar days) valid Certificate of Good Standing or Letter of Good Standing, or in the case registration is not required, to provide, in writing the reason as to why none is required.
- Bidders should provide the certification(s) with their bid.

4. ETHICS

Neb. Rev. Stat. § 81-161.05 prohibits MD-AS employees from accepting gifts or anything of value from vendors. The MD-AS requests vendor's compliance with this statutory requirement:

- No bidder shall pay or bid gifts to any State employee.
- Bidders shall not use lobbyists, attorneys, political activists, or consultants to secure the contract.
- Bidders are not prohibited from seeking expert advice or legal counsel.
- Bidders found in non-compliance with this subsection may be disqualified from the selection process or forfeit the contract award.

5. VENDOR LIST REGISTRATION

All individuals/firms interested in bidding on the requirements for goods and services for the State may register for inclusion on the vendors list with SPB. Any firm/individual may request placement on the vendors list with the SPB by submitting a "[Vendor Application](#)" form and completed W-9. Applications

and W-9 forms may be obtained from the [SPB website](#). Any firm or individual bidding on a State of Nebraska Request for Proposals (RFP) for services and/or an Invitation to Bid (ITB) for commodities/goods does not need to be registered as a vendor; however an awarded bidder(s) will be required to complete a Vendor Application and W-9 form prior to issuance of any contract or purchase order award. The awarded bidder must be set up in the State's Payroll and Financial System (PFC) in order for payment to be made.

Vendors are solely responsible for the accuracy of their information and for keeping the information current. Any changes or additions, such as a change of address or an additional National Institute of Government Purchasing (NIGP) codes to be included, the vendor may request updates to their information at any time by submitting an updated Vendor Application form.

Failure to keep company information current can result in removal from the State's vendor List.

5.1. Commodity/Service Code

SPB uses the NIGP commodity/service codes as the method for registering vendors under different categories. The NIGP list is included as part of the vendor application process. Completion of this portion of the application allows the State to develop a database from which a list of potential bidders may be generated.

5.2. Invitation To Bid/Request For Proposal NOTIFICATION

A vendor who has been placed on the bidders list may receive periodic RFP/ITB letters for ITBs and RFPs. However, due to the volume of vendors registered under each code, it is not fiscally feasible to send letters to all vendors. A random selection of vendors is selected to receive these notices.

ITBs valued in excess of \$24,999.99 and RFPs valued at \$50,000 and over are advertised on the [SPB website](#), and RFPs are advertised in a newspaper with statewide circulation. Vendors are encouraged to view the SPB website on a periodic basis for up-to-date information regarding ITBs and RFPs. SPB will not be responsible to ensure a vendor receives an ITB/RFP RFP/ITB letter.

6. Communication with Staff

6.1. Office and Contact Person

- The sole point of contact for SBP is provided in the bid documents.
- Vendors are cautioned to follow the communication procedures carefully, so as not to jeopardize the bid process
- Vendors shall not have contact with the agency staff and/or evaluators during the bid process. Vendor's bid may be rejected if the communication limitations are not observed.

7. Procurement Thresholds

State statute establishes whether an agency or SPB must solicit a contract based upon whether the items are goods or services, and the estimated dollar amount of the contract. The estimate must include all renewal options. The following charts illustrate these thresholds:

GOODS

< \$2000.00	Agency Level Decision (Direct pay to Accounts Payable or purchase with P-card); 3 bids are recommended. A purchase order is required if the item is on contract. P-card may not be used for contract purchases.
=> \$2000.00 but < \$10,000.00	Agency has unrestricted open market authority to make a purchase. The purchase must be entered in EnterpriseOne and paid with using a purchase order.
=> \$10,000.00	Purchase must be informally bid through SPB
=> \$25,000.00	Purchase must be formally bid through SPB
Fixed Asset > \$1500	Purchase Order must be entered in EnterpriseOne.

SERVICES

< \$50,000	Agency Level Decision (3 documented bids highly recommended)
=> \$50,000.000 and Deviation (Sole Source)	All Sole Source Service procurements in excess of \$50,000 must be reviewed and approved by MD-AS. Agencies must use the Deviation from Contractual Services Process.
=> \$50,000.00	Procurements greater than \$50,000 can be bid out by the Agency or SPB, but must be bid in the manner proscribed by MD-AS. Any changes from original documents to contract must be reviewed by SPB prior to contract signing.

Agencies shall not artificially or intentionally split purchases for the same, like, or related items of goods or services into several purchases or smaller quantities, in order to utilize the small purchase process and avoid statutory competition requirements.

7.1. Sealed Bidding (Formal)

This method is used when it is determined that award to the lowest responsive, responsible bidder is desired. For services, once the cost of a contract reaches \$50,000 it must be adhere to the formal sealed bidding process; for goods the threshold is \$25,000. The value of the contract is determined by the value of the initial contract and the value of all available renewal options. The sealed bidding method allows the purchasing agency to; evaluate technical, corporate, cost, and other criteria, rank bidders, have discussions, and conduct other procedures to identify the lowest, responsive and responsible bidder.

In this process, bids are submitted in a sealed envelope.

In a **Cost Only** contract the bidder would only submit a cost proposal and the other criteria listed above would not be considered or evaluated.

7.2. Informal Bids (Sealed or Direct Contact)

Informal bids are used for contracts under \$50,000 for services, and under \$25,000 for goods. The agency may contact the bidders from the bidders list or other potential bidders in writing or by phone. Agencies are encouraged to solicit bids from a minimum of three (3) bidders. The bidders are provided a copy of the RFP/ITB or a copy of the specifications and required to submit a bid by a specified date. There is no formal bid opening.

7.3. Unrestricted Open Market Purchase Authority

Unrestricted Open Market Purchase Authority is granted on an annual basis by DAS to agencies who have requested the authority. The authority is for purchases under \$10,000, unless specific authority has been granted at a higher dollar amount for a specific purchase.

See [Unrestricted Open Market Purchase Authority Letter](#)

7.4. Sole Source

7.4.1. Goods

Sole source purchases are used for the procurement of commodities/goods available from only one source due to the unique nature of the requirement, compatibility, its supplier, proprietary product, or market conditions. (This may also apply to the request to procure used equipment, due to the difficulty of evaluating used equipment on an item-by-item basis).

7.4.2. Services

Sole source services are defined as services “of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or the sole availability at the location required.”

7.5. Emergency

7.5.1. Goods

The emergency procurement process is used for situations which endanger lives, property, public safety, or the continuation of a vital program which can be rectified only by immediate on-the-spot purchases or rental of equipment, supplies, or materials.

Agencies have direct purchase authority for emergency purchase for commodities/goods under \$10,000.00 (refer to Unrestricted Open Market Purchase Process section of this manual).

However, when the purchase for commodities/goods is \$10,000.00 and over, it must be processed by SPB. When the purchase for commodities/goods is \$25,000 and over, the purchase must be approved by the Governor. Upon approval, the agency must notify SPB.

7.5.2. Services

An emergency service procurement is defined as one that is “necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk.”

7.6. GSA

7.6.1. Goods

All items based on GSA like Pricing \$10,000 and over must be processed through and approved by SPB as per State Statute §81-153 (7). Agencies must provide a copy of the GSA contract along with the requisition. SPB will make the final determination on whether GSA like pricing is in the best interest of the State.

7.6.2. Services

To purchase services through GSA like pricing a deviation must be submitted to MD-DAS.

7.7. Restrictive (Goods Only)

Restrictive is defined as “a specification or purchase description that limits competition.” This method of procurement is utilized when only one product is suitable for the agency’s needs, but it is sold through distributors/resellers.

7.7.1. Specialized Goods

- **Micrographic Equipment** – Requests for this type of equipment **must** be submitted to State Purchasing.
- **Motor Vehicles** – All contract purchases of passenger vehicles are processed using a purchase order and requires the approval of the AS Transportation Services Bureau with the exception of those motor vehicles indicated in State [Statute §81-1011](#). Once the purchase order has been approved by AS Transportation Services Bureau, the agency is responsible for e-mailing the purchase order to the contractor.

Exceptions to Neb. Rev. Stat. § 81-1011 still require the issuance of a purchase order. The agency is responsible for e-mailing the purchase order to the contractor.

If the purchase involves a trade in these orders must be submitted to State Surplus Property and approved by the Materiel Division Administrator prior to ordering. **No exceptions!**

If an agency needs a vehicle that is not on contract, the agency is responsible for submitting a requisition to State Purchasing.

- **Weapons/Guns** – All weapons/guns must be processed through SPB.

7.8. Cooperative Contracts

A cooperative contract involves a master contract entered into by another state or political subdivision. The agency utilizes the master contract with or without a participating addendum to the master contract. The use of a cooperative contract must be authorized by statute and processed by SPB. Agencies must utilize the deviation process when requesting the use of a cooperative contract for services but only an email is necessary to request the use of a cooperative contract for goods.

7.9. Pre-Bid Conference

A pre-bid conference is conducted to explain the procurement requirements to potential bidders and allow potential bidders to ask questions. Pre-Bid Conferences may be mandatory or optional at the discretion of the agency. Responses to questions during the Pre-Bid Conference are not binding on the State unless answered in writing, and posted to the SPB website

7.10. Question and Answer Period

Typically, vendors are provided an opportunity to submit written questions concerning the RFP/ITB at least once (some RFP/ITBs will have multiple question and answer periods). A specific deadline for the submission of questions is set out in the Schedule of Events. Subsequent to any Question and Answer Period, if a vendor has additional questions, the vendor may contact the POC. The State reserves the right to consider additional questions and provide written responses. Questions are submitted in writing to the SPB POC, who then forwards them to the agency contact once the submission deadline has passed. Sometimes, however, questions are forwarded as they are received due to complexity and/or time constraints.

7.11. Pre-Bid/Proposal Conference

The ITB/RFP may require mandatory attendance at a pre-bid/proposal conference. Read the bid document carefully. If attendance is mandatory at the pre-bid/proposal conference, bidder must have a representative in attendance in order to submit an ITB/RFP response.

7.12. Submission of Bids/Proposals

Vendors should read instructions carefully within the RFP/ITB regarding submission of bids. Failure to follow the instructions may disqualify the bidder from moving forward in the procurement process.

IMPORTANT NOTICE: Pursuant to Neb. Rev. Stat. § 84-602.02, State contracts in effect as of January 1, 2014, and contracts entered into thereafter, must be posted to a public website. The resulting contract, the bid/RFP, and the successful bidder's proposal or response will be posted to a public website managed by DAS, which can be found at http://www.nebraska.gov/das/materiel/purchasing/contract_search/index.php.

In addition and in furtherance of Neb. Rev. Stat. §84-712 et seq., all proposals or responses received regarding this bid/RFP will be posted to the DAS public website.

These postings will include the entire proposal or response. Bidders must request that proprietary information be excluded from the posting. The bidder must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously in black ink with the words "PROPRIETARY INFORMATION". The bidder must submit a detailed written showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992) THE BIDDER MAY NOT ASSERT THAT THE ENTIRE PROPOSAL IS PROPRIETARY. COST PROPOSALS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The State will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)) The Bidder will be notified of the agency's decision. Absent a State determination that information is proprietary, the State will consider all information a public record subject to release regardless of any assertion that the information is proprietary.

If the agency determines it is required to release proprietary information, the bidder will be informed. It will be the bidder's responsibility to defend the bidder's asserted interest in non-disclosure.

To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents. Any individual or entity awarded a contract, or who submits a proposal or response to this bid/RFP, specifically waives any copyright or other protection the contract, proposal, or response to the bid/RFP may have; and, acknowledges that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP, and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the bid/RFP being found non-responsive and rejected.

Any entity awarded a contract or submitting a proposal or response to the bid/RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the RFP, awards, and other documents.

7.13. Receipt of Bids

All proposals must be received by SPB, or the agency, by the date and hour indicated on the RFP/ITB. **Late bids will not be accepted, regardless of cause** and upon request, returned to the bidder unopened at their expense.

Upon receipt by the purchasing agency, bid documents will be date and time stamped but not opened. Bids shall be stored in a secure place until the bid opening. Bids will be opened at the date, time and place designated in the RFP/ITB for bid opening.

7.14. Mistakes in Bids

A bidder may correct a mistake in a bid prior to the time of opening by giving written notice to the purchasing agency of intent to withdraw the bid for modification or to withdraw the bid completely. Changes in a bid after opening are acceptable only if the change is made to correct a minor error that does not affect price, quantity, quality, delivery, or contractual conditions, and does not prejudice the other bidders

. In case of a mathematical error in extension of price, **unit price shall govern.**

7.15. Bid Opening

Anyone may attend the opening. It is considered a public. The Buyer will read the names of the bidders and the cost bid. A List of Respondents will be posted to the SPB website.

The bids will **NOT** be available for public viewing at the opening. Bids will be available for public viewing upon posting of the Intent to Award. The public posting will have all confidential/proprietary information withheld if the bidder has submitted the information in accordance with the RFP/ITB and per state statute. If the state determines that it must release the information in accordance with the [Public Records Act](#), the bidder will be notified of the release and shall be responsible for defending against the release of the information.

8. Evaluation

8.1. Evaluation (Services)

- The State will evaluate each proposal that meets the mandatory requirements.
- Clarification to an RFP response may be sought in order to score the response.
- Clarification:
 - Bidder cannot change substance of response and cannot alter cost to the State.
 - Occurs prior to intent to award.
 - Allows State to eliminate confusion regarding a bidder's response for purposes of evaluation.
 - Information provided by bidder for the purpose of clarification, if relied upon by the State for the purposes of an award, is binding upon the bidder.
- Scoring will be verified for accuracy.

8.2. Evaluation (Goods)

All bids that fulfill the mandatory requirements will be evaluated for conformance to the requested specifications. Elements that may also be considered include but are not limited to:

- The ability, capacity and skill of the bidder to deliver and implement the system or project, or provide the requested goods, which meet the requirements of the ITB.
- The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
- Whether the bidder can perform the contract within the specified time frame.
- The quality of bidder performance on prior contracts
- Such other information that may be secured and that has a bearing on the decision to award the contract.

8.3. Oral Interviews/Presentations and/or Demonstrations

After review of RFP responses, the evaluation committee may conclude an Oral Interview/Presentation and/or Demonstration is required in order to determine the successful bidder. All bidders may not have an opportunity to interview/present and/or give demonstrations. This process is at the sole discretion of the State.

Any and all costs incidental to the oral interview/presentation and/or demonstration is the responsibility of the bidder and will not be reimbursed by the State.

8.4. Best and Final Bid (Services)

The State will compile the scores and award to the highest scoring responsive and responsible bidder.

In some cases, the State may request a best and final proposal from the highest scoring bidder(s). The bidder's must highlight the changes that are made to their proposal to identify them for evaluation team.

The best and final bid will be evaluated, scored, and ranked by the Evaluation Committee and replaces the original score of each bidder requested to submit a Best and Final Bid.

Bidders should provide their best bid with the original proposal and not expect that the State will request a best and final bid.

8.5. References

The State reserves the right to check any reference(s) regardless of the source. The State reserves the right to use a third party to conduct reference checks.

- Information to be requested and evaluated may include, but not be limited to, some or all of the following: financial stability of the company, cost and schedule estimates and accuracy, contract performance problems (poor quality deliverables, contract disputes, work stoppages, etc.), overall performance, and whether or not the reference would contract with the firm or individual again.
- Negative references may eliminate bidders form consideration
- Only the top scoring bidder(s) may receive reference checks.

8.6. Preferences

The State of Nebraska has several statutory preferences an agency must consider when awarding a contract. If the bids are equivalent the preferences shall be applied. The preferences include:

- Recycled products ([Neb. Rev. Stat. § 81-15,159](#))
- Resident / Reciprocal preference ([Neb. Rev. Stat. § 73-101.01](#))
- Persons with blind and visually impaired ([Neb. Rev. Stat. § 71-8611](#))
- Veterans ([Neb. Rev. Stat. § 73-107](#))
- Enterprise Zones ([Neb. Rev. Stat. § 73-107](#))

8.7. Tie Bids and Preference

Bids which are equal in all respects and tied in price shall be resolved by drawing lots. Nebraska vendors shall be given preference. Tie bids involving more than one Nebraska vendor shall be resolved by drawing lots among the Nebraska vendors.

A resident bidder shall be allowed a preference as against a non-resident 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 non-resident bidder.

A resident bidder means any person, partnership, association, or foreign or domestic corporation authorized to engage in business in the State of Nebraska and who shall have met the residency requirement of the state of the non-resident bidder, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced, or shall have had a bona fide establishment for doing business within this state for the length of time established by the state of the non-resident bidder, necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced.

8.8. Bid Tabulations

Bid Tabulations are available on the [SPB website](#) after the intent to award has been announced.

9. AWARD (Goods)

All purchases, leases, and contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined in accordance with the provisions of [Neb. Rev. Stat. § 81-161](#).

Awards may be made line by line, for multiple lines, by groups, and to one or more bidders. All awards will be made in a manner deemed in the best interest of the State.

An Intent to Award will be posted to the SPB website.

Awarded contracts are not exclusive, and do not preclude the State from purchasing the same or similar goods or services from other sources.

9.1. Rejection of Bids/Proposals

The State reserves the right to reject any or all bids/proposals, wholly or in part.

The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid/proposal, and do not improve a bidder's competitive position

9.2. Violation of Terms and Conditions

Violation of the terms and conditions in the RFP and any resulting contract, at any time before or after the award, shall be grounds for action by the State which may include, but is not limited to, the following:

Rejection of a bidder's bid.

Suspension of the bidder from further bidding with the State for the period of time relative to the seriousness of the violation, such period to be within the sole discretion of the State.

Legal action.

9.3. PROTEST/GRIEVANCE

Any bidder who submits a bid may submit a grievance/protest. [Grievance/Protest procedures](#) are available on the SPB website.

10. VENDOR PERFORMANCE REPORTS

Agencies may, at times, experience problems with late deliveries, non-deliveries, inferior product, unauthorized product substitutions, or other breaches of contract. These should be addressed in a timely manner. Agencies are encouraged to address the problem directly with the vendor. If an agency is unable to resolve the problem, they may request assistance from SPB. This is documented through a Vendor Performance Report.

It is recommended that the agency call the vendor to discuss the problem and then follow up in writing with a copy of the Vendor Performance Report to SPB. The agency should follow up with the vendor until the problem is resolved, or contact SPB for assistance.

10.1. Vendor Performance Report Procedures

When a vendor breaches the contract, the agency will document this breach and notify SPB through the use of a [Vendor Performance Report](#).

The agency will be responsible for indicating on the Vendor Performance Report if it is for informational purposes, in which case no further action will be taken by SPB, or if the agency is requesting SPB to contact the vendor for resolution. If the agency has resolved the dispute and is providing a report for informational purposes, the agency should indicate how the dispute was resolved.

If the agency is requesting that SPB contact the vendor for resolution, SPB will contact the vendor via letter and will provide the basis for the breach.

At times, the breach may be complex and require a meeting with the vendor to discuss the breach(s) in the Vendor Performance Report.

The vendor will be required to submit a written response, via letter, as to the steps being taken to resolve the breach within the designated time period set forth in the letter from SPB.

SPB will review the vendor's response with the agency. If the vendor fails to provide a reasonable solution that is acceptable to the State, the State will consider this a failure on the part of the vendor to correct the breach.

The vendor will be given a reasonable time period to take corrective action.

Failure to correct the dispute satisfactorily, at the sole discretion of the State, may be the basis for canceling the contract and suspending the vendor from bidding in the future.

Two (2) or more submissions of Vendor Performance Reports that require SPB intervention to resolve breaches may result in termination of the contract and the vendor being suspended from bidding in the future.

All documentation regarding the Vendor Performance Report and response from the vendor and agency will be kept on file with SPB.