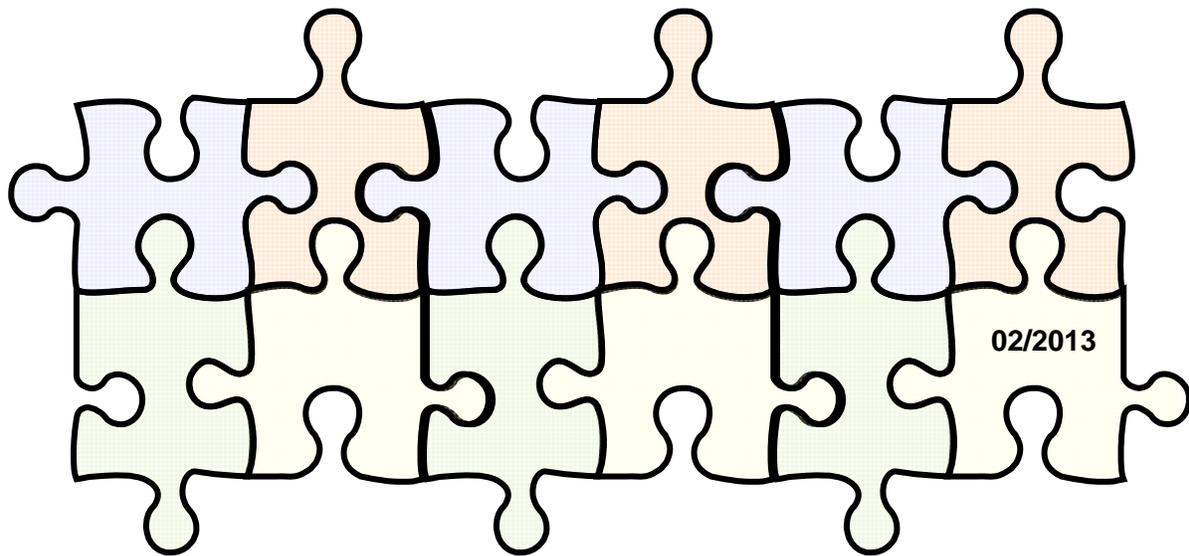


NEBRASKA
Administrative Services

Materiel / Purchasing Division



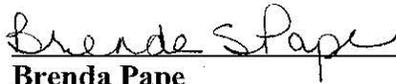
To Our Bidders and Future Vendors:

On behalf of the AS Materiel/Purchasing Division, I would like to extend a warm welcome to the bidders participating in our procurement process for commodities. This manual is for you. It has been carefully prepared to assist you in the preparation and submission of your bids. If you should have questions your requests for assistance will be enthusiastically received. We are here to help you!

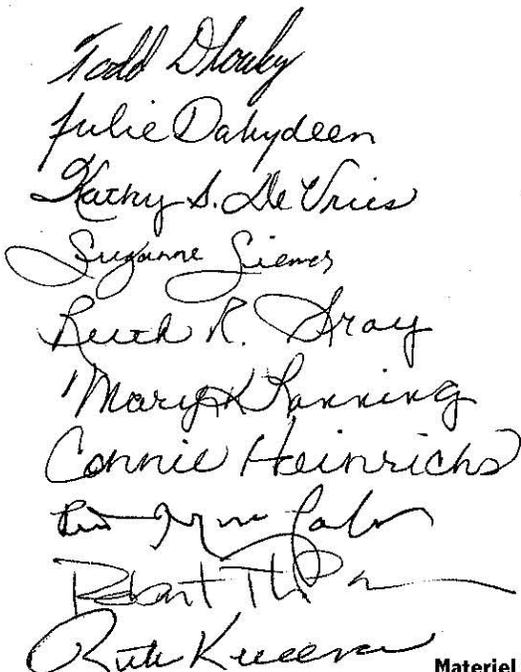
Thank you for your interest in State of Nebraska procurement.



**Steve Sulek
Acting Administrator
AS Materiel**



**Brenda Pape
Procurement Manager
AS Materiel**



Todd Shroyer
Julie Dahydeen
Kathy S. McVries
Suzanne Siemes
Lued R. Gray
Mary K. Spang
Connie Heinrichs
Linda J. Johnson
Bart Thompson
Ruth Keenan

Materiel Division • Steve Sulek, Acting Administrator

Administrative Services • 301 Centennial Mall South • P.O. Box 94847 • Lincoln, Nebraska 68509-4847 • Phone: 402-471-2401 • Fax: 402-471-2089

An Equal Opportunity/Affirmative Action Employer

Printed with soy ink on recycled paper

TABLE OF CONTENTS

TABLE OF CONTENTS	i
STATUTES	iv
What statutes govern the procurement of commodities/goods?.....	iv
GLOSSARY OF TERMS	v
I. INTRODUCTION	1
A. What is the purpose of the State Purchasing Bureau?	1
B. Are AS Materiel Division employees permitted to accept gifts from vendors?.....	1
C. How does the State Purchasing Bureau assign commodities/goods?	1
II. VENDOR INFORMATION	2
A. How does a vendor register for inclusion on the bidders list with the State Purchasing Bureau?	2
B. Is a vendor required to be on the State Purchasing Bureau bidders list in order to respond to an Invitation to Bid?	2
C. How does the State determine which vendors are sent solicitation letters on bid opportunities for commodities/goods?	2
D. How does the State notify vendors of bid opportunities?	2
E. How does the State solicit requests for commodities/goods from vendors?	2
F. How are rentals and leases procured?	2
G. What are the different methods for the procurement of commodities/goods?	3
III. INFORMATION RELEVANT TO THE INVITATION TO BID PROCESS	5
A. Where does a vendor obtain information about bid opportunities?	5
B. What is the difference between a bid for a one time purchase and a contract?	5
C. What is the purpose of a pre-bid conference?	5
D. How does a vendor submit questions regarding an Invitation to Bid?	5
E. What costs need to be included in the bid price?	5
F. Can bidders collaborate in developing bid responses?	5
G. Can a bidder offer an alternate bid?	6
H. Will the State accept used, refurbished, or reconditioned items?	6
I. How are trade-ins processed?	6
J. How does the State inform vendors of information regarding an Invitation to Bid?	6
K. How should a Competitive “Formal” Bid response be submitted to the State?.....	6
L. How should a Competitive “Informal” Bid response be submitted to the State?.....	6
M. Can a bid response be changed after submission to the State?	6
N. Can a bid be recalled after it has been submitted to the State?	6
O. When are bids opened and who is allowed to attend? Are proposals available for viewing by the public?	7
P. What if a bid is not received by the opening date and time?	7
Q. How does a bidder submit information to be withheld from public viewing?.....	7
R. What happens to the bids after the bid opening?	7
S. What is the process for submitting a public information request?	7
T. Are bid tabulations posted to the website?	8
U. How does the State determine if a commodity/good bid is acceptable?	8
V. How is a contract award made?	8
W. Does a bidder need to register with the Secretary of State/Tax Commissioner’s office?	8
X. How does a vendor protest an award decision by the State?.....	8
Y. How is the contract between the State and the bidder formed?	8
Z. Where does a contractor deliver commodities/goods when they have been awarded a purchase order/contract?.....	9

AA.	What happens if commodities/goods received are not acceptable?.....	10
BB.	How does the State resolve unacceptable performance by vendors?.....	10
CC.	Can a vendor be paid in advance of commodities/goods received?	10
DD.	When does a vendor receive payment?	10
IV.	ADDITIONAL CONSIDERATIONS.	11
A.	What miscellaneous terms and conditions may be included in an Invitation to Bid?	11
B.	Does the State of Nebraska give any preferences when determining a contract award?	12

STATUTES

What statutes govern the procurement of commodities/goods?

Statutes may be viewed on the following website: <http://uniweb.legislature.ne.gov/QS/laws.html>

81-145	Materiel Division; Terms, Defined
81-153	Materiel Division, Powers and Duties, Enumerated
81-154	Materiel Division, Standard Specifications
81-154.01	Materiel Division, University of Nebraska; Purchase Agreements
81-156	Laboratory Tests; Fee
81-159	Requisitions by Using Agency; Procedures Used by Materiel Division
81-161	Competitive Bids, Award to Lowest Responsible Bidder; Elements Considered
81-161.01	Competitive Bids; Time Requirements; Waiver
81-161.02	Competitive Bids; Rejection by Materiel Division; Grounds; New Bids
81-161.03	Direct Purchases, Contracts, or Leases
81-161.04	Materiel Division; Surplus Property; Sale Procedure; Proceeds of Sale
81-162	Purchases or Leases; Form of Contract
81-1118	Materiel Division; Established; Duties; Administrator; Branches Established
81-1118.01	Materiel Administrator; Inventory Record; State Property; Powers and Duties
81-1118.02	All Officers, Departments and Agencies; State Property; Inventory; How Stamped; Action to Recover
81-1118.03	Personal Property; Purchase or Lease; Approval; Solicitation by Department of Administrative Services
81-1118.04	Materiel Division; Purposes
81-1118.05	Materiel Division; Powers and Duties
81-1118.06	Materiel Division; State Purchasing Bureau; Purposes
81-1184	Legislative Intent
81-1185	State Government Recyclable Materiel, Defined
81-1186	Department; Duties
81-1187	Disposition of State Government Recyclable Materiel
81-1188	Resource Recovery Fund; Created; Use; Investment
81-1189	Rules and Regulations
81-15,159	Legislative Findings and Intent, State Purchases, Preference Requirements
81-2401 -	Prompt Payment Act
81-2408	
84-712.01	Public Records; Right of Citizens, Full Access, Access by Modem; Fee Authorized
84-712.05	Records Which May be Withheld From the Public; Enumerated

GLOSSARY OF TERMS

Addendum: Something added or deleted.

Agency: All officers of the State, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations.

Amend: To alter or change by adding, subtracting or substituting. A contract can be amended only by the parties participating in the contract. A written contract can only be amended in writing.

Amendment: Written correction or alteration.

Appropriation: Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

Award: All purchases, leases, or contracts which are based on competitive bids will be awarded according to the provisions in the Invitation to Bid. The State reserves the right to reject any or all bids, wholly or in part, or to award to multiple bidders in whole 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 bids, and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

Bid: The executed document submitted by a bidder in response to an Invitation to Bid.

Bid Bond: A bond given by a surety on behalf of the bidder to ensure that the bidder will enter into the contract as bid and is retained by the State from the date of the bid opening to the date of contract signing.

Bidder: Any person or entity submitting a competitive bid response to a solicitation.

Business: Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other private legal entity.

Calendar Day: Every day shown on the calendar; Saturdays, Sundays and State/Federal holidays included. Not to be confused with "Work Day".

Closing Date: Specified date for receiving informal bids.

Collusion: A secret agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful or unlawful purpose.

Commodities/Goods: Any equipment, material, or supply; anything movable or tangible that is provided or sold.

Competition: The process by which two or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and/or service.

Confidential Information: Unless otherwise defined below, “Confidential Information” shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would provide.

Contract for Commodities/Goods: An agreement between two or more persons to provide an end item of supply, commodities/goods, equipment, or material.

Contractor: Any person or entity that supplies commodities/goods and/or services.

Cooperative Purchasing: The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits.

Copyright: A grant to a writer/artist that recognizes sole authorship/creation of a work and protects the creator’s interest(s) therein.

Default: The omission or failure to perform a contractual duty.

Emergency: Situation which endanger lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase or rental of equipment, supplies and materials.

Evaluation of Bid: The process of examining a bid after opening to determine the bidder’s responsibility and responsiveness to requirements and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

Extension: Continuance of a contract for purposes different from those for renewal.

F.O.B. Destination: Free on Board. The delivery charges have been included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product.

Invitation to Bid (ITB): The written solicitation document used by the State Purchasing Bureau for seeking competition and obtaining bid responses.

Late Bid: A bid received at the place specified in the solicitation after the opening date and time designated for all bids to be received. Late bids will not be accepted and will be returned to the bidder unopened.

Mandatory: Required, compulsory or obligatory.

Must: Denotes the imperative, required, compulsory or obligatory.

NIGP: National Institute of Governmental Purchasing.

NIS: Nebraska Information System.

Opening Date: Specified date and time for the public opening of received, labeled and sealed formal bids. Not to be confused with “Release Date”.

Performance Bond: A bond given by a surety on behalf of the contractor to ensure the timely and proper (in sole estimation of the State) performance of a contract.

Pre-Bid Conference: A meeting scheduled for the purpose of providing clarification regarding an Invitation to Bid and related expectations.

Proprietary Information: Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

Protest: A complaint about a governmental action or decision related to an Invitation to Bid or resultant contract, brought by a prospective bidder, a bidder, a contractor, or other interested party to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

Public Bid Opening: The process of opening bids, conducted at the date, time and place specified in the Invitation to Bid, and in the presence of anyone who wishes to attend.

Release Date: Date of release of the Invitation to Bid to the public for submission of bid responses. Not to be confused with “Opening Date”.

Renewal: Continuance of a contract for an additional term after a formal signing by the parties.

Responsible Bidder: A bidder who has the capability in all respects to perform fully all requirements with integrity and reliability to assure good faith performance.

Responsive Bidder: A bidder who has submitted a bid which conforms in all respects to the solicitation document.

Shall: Denotes the imperative, required, compulsory or obligatory.

Sole Source – Commodity/Good: An item available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

Solicitation: The process of notifying prospective bidders or offerors that the State of Nebraska wishes to receive bids for commodities/goods. The process may consist of public advertising, posting notices, or mailing/faxing/emailing Invitations to Bid and/or Invitation to Bid announcement letters to prospective bidders, or all of these.

Solicitation Document: An Invitation to Bid.

Termination: Occurs when either party pursuant to a power created by agreement or law puts an end to the contract. All obligations which are still executory on both sides are discharged, but any right based on prior breach or performance survives.

Trademark: A distinguishing sign, symbol, mark, word or arrangement of words in the form of a label or other indication, that is adopted and used by a manufacturer or distributor to designate its particular commodities/goods and which no other person has the legal right to use.

Vendor: An actual or potential contractor; a contractor.

Work Day: Monday through Friday excluding weekends and State/Federal holidays.

I. INTRODUCTION

The guidelines included within this manual provide basic information to assist vendors in doing business with the State of Nebraska. This manual is not to be considered all-inclusive. If there are specific questions regarding the procurement of commodities/goods or this manual please contact Administrative Services (AS) Materiel Division, State Purchasing Bureau hereinafter known as the State Purchasing Bureau (402-471-2401). Additional information is also available on the State Purchasing Bureau website, <http://www.das.state.ne.us/materiel/purchasing/>.

The State Purchasing Bureau reserves the right to make modifications to this manual by publication of a revised edition without prior notice. Such modifications will become effective on the date of issuance. In the event of a conflict between this manual and procurement documents issued to vendors, the provisions of the procurement documents govern.

A. **What is the purpose of the State Purchasing Bureau?**

The purposes of the State Purchasing Bureau created by Neb. Rev. Stat. §81-1118 are:

1. to increase public confidence in the procedures followed in public procurement;
2. to ensure the fair and equitable treatment of all persons who deal with the procurement system of this State;
3. 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;
4. to foster effective broad-based competition within the free enterprise system; and
5. to provide safeguards for the maintenance of a procurement system of quality and integrity.

B. **Are AS Materiel Division employees permitted to accept gifts from vendors?**

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

C. **How does the State Purchasing Bureau assign commodities/goods?**

State Purchasing Bureau buyers are assigned specific commodities/goods, generally grouped by their similarities. Agency requisitions are assigned to the appropriate buyer upon receipt by the State Purchasing Bureau.

II. VENDOR INFORMATION

A. **How does a vendor register for inclusion on the bidders list with the State Purchasing Bureau?**

Any firm or individual may request placement on the bidders list with the State Purchasing Bureau by submitting a "Vendor Application" form. Application forms may be obtained from the State Purchasing Bureau website or the State Purchasing Bureau at the address listed below. Any firm or individual bidding on a State of Nebraska Invitation to Bid does not need to be registered as a vendor with the State Purchasing Bureau. However, awarded bidder(s) not registered with State Purchasing Bureau will be required to complete a "Vendor Application" form prior to any contract or purchase order award.

State Purchasing Bureau
Nebraska State Office Building
301 Centennial Mall South, Mall Level
P. O. Box 94847
Lincoln, NE 68509-4847
Telephone: 402-471-2401
Website: <http://www.das.state.ne.us/materiel/purchasing/>

B. **Is a vendor required to be on the State Purchasing Bureau bidders list in order to respond to an Invitation to Bid?**

It is not required that a vendor be registered with the State Purchasing Bureau to do business with the State of Nebraska.

C. **How does the State determine which vendors are sent solicitation letters on bid opportunities for commodities/goods?**

The State Purchasing Bureau uses the National Institute of Government Purchasing (NIGP) Commodity/Service Code as the method of registering vendors under different categories. The NIGP list is included in the vendor application. Completion of this portion of the "Vendor Application" form allows the State to develop a data base from which a bidders list can be generated.

D. **How does the State notify vendors of bid opportunities?**

A vendor who has been placed on the bidders list may receive solicitation letters for Invitations to Bid for the items specified on its application. The State Purchasing Bureau uses the National Institute of Government Purchasing (NIGP) Commodity/Service Code as the method of selecting vendors. The State Purchasing Bureau will not be responsible to ensure that a vendor receives an Invitation to Bid solicitation letter.

E. **How does the State solicit requests for commodities/goods from vendors?**

Requests are solicited from vendors by means of an Invitation to Bid. All information pertinent to an Invitation to Bid in excess of \$24,999.99 can be found on the internet at: <http://www.das.state.ne.us/materiel/purchasing/rfp.htm>. Bids that are less than \$25,000.00 may be solicited by means of phone, fax, email, mail or the internet.

F. **How are rentals and leases procured?**

All proposed rentals or leases of equipment by state agencies are treated the same as the procurement of commodities/goods per Neb. Rev. Stat. §81-161.03, 81-1118.03.

G. What are the different methods for the procurement of commodities/goods?

The State Purchasing Bureau uses the following methods to procure services: Competitive Formal Sealed Bids, Competitive Informal Bids, Direct Purchases, Federal General Service Administration (GSA) Contracts, Multi-State Cooperative Purchasing Contracts, University of Nebraska Purchase Agreements, Sole Source Purchases, and Emergency Purchases.

1. Competitive Formal Sealed Bids

Competitive formal sealed bids are required for purchases in excess of \$24,999.99. A minimum of fifteen days shall elapse between the time formal bids are advertised and the time of the opening, except that this requirement may be waived by the AS Materiel Administrator upon a showing by the using agency of an emergency, sole or specialized source, or other unique requirement. All competitive formal purchases are processed through the State Purchasing Bureau.

2. Competitive Informal Bids

Competitive informal bids are used for purchases valued equal to or exceeding \$10,000.00 but less than \$25,000.00. All competitive informal purchases are processed through the State Purchasing Bureau. The State Purchasing Bureau may grant direct purchase authority for agency processing. Bids may be solicited by phone, fax, email, mail or the internet.

3. Direct Purchases

Direct Purchases may, by written order of the State Purchasing Bureau, be granted for purchases less than \$10,000.00. The State Purchasing Bureau may grant additional authority to permit purchases, contracts, or leases to be made by any using agency directly with the vendor or supplier whenever it appears to the satisfaction of the State Purchasing Bureau that, because of the unique nature of the personal property, the price in connection therewith, the quantity to be purchased, the location of the using agency, the time of the use of the personal property, or any other circumstance, the interests of the state will be served better by the purchasing or contracting direct than through the State Purchasing Bureau. [See Direct Market Purchase Authority Letter Exhibit 1.](#)

4. Federal General Service Administration (GSA) Contracts

Federal General Service Administration (GSA) contracts may be used for the purchase of items without competitive bidding when the price has been established by the federal General Services Administration and is in the best interest of the State of Nebraska. Any requests for GSA purchases in excess of \$10,000.00 must be processed through the State Purchasing Bureau.

5. Multi-State Cooperative Purchasing Contracts

Multi-State Cooperative Purchasing contracts may be used for the purchase of items without competitive bidding by participation in a contract competitively bid by another state or group of states. Any requests for multi-state cooperative purchases in excess of \$10,000.00 must be processed through the State Purchasing Bureau.

6. University of Nebraska Purchase Agreements

University of Nebraska purchase agreements may be used by the State Purchasing Bureau upon a finding by the State Purchasing Bureau that the use of such agreements would be in the best interests of the State. Any requests for purchases using University of Nebraska purchasing agreements in excess of \$10,000.00 must be processed through the State Purchasing Bureau.

7. Sole Source Purchases

Sole Source Purchases are used for the procurement of commodities/goods available from one source due to the unique nature of the requirement, its supplier, or market conditions. The State Purchasing Bureau is responsible for the purchase of sole source commodities/goods in excess of \$10,000.00.

8. Emergency Purchases

Emergency Purchases are used for the procurement of commodities/goods in a situation which endangers lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase or rental of equipment, supplies and materials. All emergency purchases must be pre-approved by the State Purchasing Bureau prior to the purchase.

III. INFORMATION RELEVANT TO THE INVITATION TO BID PROCESS

A. **Where does a vendor obtain information about bid opportunities?**

Current bid opportunities are posted to the State Purchasing Bureau website at <http://www.das.state.ne.us/materiel/purchasing/rfp.htm>. The bid opportunities are categorized under “Bid Opportunities Processed by the State Purchasing Bureau” as either “Invitation to Bid for Commodity/Good One Time Purchases” or “Invitation to Bid for Commodity/Good Contracts”.

B. **What is the difference between a bid for a one time purchase and a contract?**

Invitations to Bid for one time purchases are used for individual procurements for a specific state agency. A firm, fixed price is requested for a set quantity usually with a single delivery date. A purchase order is issued to the successful bidder.

Contracts are established for commodities/goods that are used in volume by state agencies. The contracts are awarded for a definite period of time, usually one year, with the option to renew for additional periods of time or extension of the contract period beyond the termination date when mutually agreeable between the vendor and the State of Nebraska (State agencies may not enter into contracts for commodities/goods with an unspecified or unlimited duration). Contracts are used on an as needed basis and impose no specific quantity usage obligation on the State. Receipt of the contract by the successful bidder does not authorize delivery of the commodities/goods. Delivery is authorized when a purchase order is issued by a state agency. Political subdivisions may use state contracts unless specifically prohibited by the terms of the contract.

C. **What is the purpose of a pre-bid conference?**

A pre-bid conference may be scheduled by the State Purchasing Bureau for the purpose of explaining specifications or other aspects of the Invitation to Bid and allows for questions by the attending vendors. The conference may require mandatory attendance. Verbal responses provided to questions during the pre-bid meeting shall not be binding on the State of Nebraska.

D. **How does a vendor submit questions regarding an Invitation to Bid?**

Any questions regarding an Invitation to Bid must be directed to State Purchasing Bureau to the attention of the buyer. It is preferred that questions be sent via e-mail to as.materielpurchasing@nebraska.gov. Questions may also be sent by facsimile to 402-471-2089. Responses to the questions will be posted as an addendum to the Invitation to Bid. Vendors are responsible for reading each Invitation to Bid as it may contain a deadline for submitting questions.

E. **What costs need to be included in the bid price?**

Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Invitation to Bid. Unless otherwise specified, the quoted price shall be a firm, fixed price exclusive of escalation clauses. No additional charges will be allowed for packing, packages or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

F. **Can bidders collaborate in developing bid responses?**

The bidder’s signature on the Invitation to Bid is a guarantee that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

G. Can a bidder offer an alternate bid?

Bidder may offer bids which are at variance from the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgment of the State Procurement Manager, the bid will result in commodities/goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidders must indicate on the Invitation to Bid the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

H. Will the State accept used, refurbished, or reconditioned items?

Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

I. How are trade-ins processed?

The process for trade-ins can be referenced on the AS Materiel Division, Surplus Property website address as follows: <http://www.das.state.ne.us/materiel/surplus/section6.htm>

J. How does the State inform vendors of information regarding an Invitation to Bid?

Information regarding an Invitation to Bid (ITB) will be posted to the State Purchasing Bureau website. The website address is as follows: <http://www.das.state.ne.us/materiel/purchasing/rfp.htm>.

It is the vendor's responsibility to check the website for any updates to the Invitation to Bid.

K. How should a Competitive "Formal" Bid response be submitted to the State?

Invitations to Bid must be sealed and labeled in an envelope/box when submitted to the State (envelopes, boxes, tape, etc. will not be provided by the State). Invitations to Bid must reference the Invitation to Bid number and be sent to the specified address. No electronic, e-mail, fax, voice, or telephone bids will be accepted in excess of \$25,000.00.

Bids must be signed in ink by the bidder on the State of Nebraska's Invitation to Bid form. All bids must be typewritten or in ink on the State of Nebraska's Invitation to Bid form. Erasures and alterations must be initialed by the bidder in ink. Failure to comply with these provisions may result in the rejection of the bid.

L. How should a Competitive "Informal" Bid response be submitted to the State?

The informal process is used for commodities/goods purchases less than \$25,000.00. Competitive informal bids may be solicited by means of an informal bid process by phone, fax, email, mail or the internet. The State Purchasing Bureau may also choose to use the competitive formal bid process for purchases less than \$25,000.00.

M. Can a bid response be changed after submission to the State?

A written correction may be made to a bid by a bidder provided that the correction is received prior to the date and time of the bid opening. All corrections must be made in writing, must be sealed and labeled, and must clearly indicate the exact portion of the original bid to be deleted for the substitution constituting the correction.

N. Can a bid be recalled after it has been submitted to the State?

Bid responses may be recalled by the bidder at any time prior to the date and time of the bid opening. Requests must be made in writing on bidder's letterhead and signed by an individual having appropriate authorization.

O. When are bids opened and who is allowed to attend? Are proposals available for viewing by the public?

The sealed bids will be publicly opened and the bidding entities announced on the date, time and location shown on the Invitation to Bid. Bids will be available for viewing by those present after the bid opening. Vendors may also contact the State to schedule an appointment for viewing bids after the opening date.

P. What if a bid is not received by the opening date and time?

A bid received after the date and time of the bid opening will be considered a late bid. A late bid will be rejected and returned to the bidder unopened. The State is not responsible for bids that are late or lost due to mail service inadequacies, traffic or any other reason(s).

Q. How does a bidder submit information to be withheld from public viewing?

Data contained in the bid and all documentation provided therein, become the property of the State of Nebraska and the data becomes public information upon opening the bid. If the bidder wishes to have any information withheld from the public, such information must fall within the definition of proprietary information contained within Nebraska's public record statutes. All proprietary information the bidder wishes the State to withhold must be submitted in a sealed package, which is separate from the remainder of the bid. The separate package must be clearly marked PROPRIETARY on the outside of the package. Bidders may not mark their entire Invitation to Bid as proprietary. Bidder's costs may not be marked as proprietary information. Failure of the bidder to follow the instructions for submitting proprietary and copyrighted information may result in the information being viewed by other bidders and the public.

Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, bidders submitting information as proprietary may be required to prove specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive. Although every effort will be made to withhold information that is properly submitted as proprietary and meets the State's definition of proprietary information, the State is under no obligation to maintain the confidentiality of proprietary information and accepts no liability for the release of such information.

R. What happens to the bids after the bid opening?

Once bids are opened they become the property of the State of Nebraska and will not be returned; bids are subject to access by the public pursuant to Neb. Rev. Stat. §84-712.01.

S. What is the process for submitting a public information request?

Requests for public information must be submitted in writing to the State via facsimile, email or U.S. mail. The subject line should contain the words "Public Information Request".

All persons interested in the examination of public records, as defined in Neb. Rev. Stat. §84-712.01, may examine or request copies of records during business hours (8:00 AM to 5:00 PM, Monday through Friday, excluding State holidays). Duplication charges may apply depending on the amount of information requested. Vendors may supply their own equipment for duplicating information.

Trade secrets and other proprietary or commercial information, which, if released, would give advantage to business competitors, may be exempt as described in Neb. Rev. Stat. §84-712.05.

Copyrighted materials cannot be duplicated without permission of the owner.

T. Are bid tabulations posted to the website?

Bid tabulations are posted to the State Purchasing Bureau website, <http://www.das.state.ne.us/materiel/purchasing/> for purchases of commodities/goods formally bid.

U. How does the State determine if a commodity/good bid is acceptable?

The Invitation to Bid specifications will state the minimum requirements of the requested commodities/goods in the form of Yes/No/Other. The bidder will indicate in the specification whether the product being offered will meet the minimum requirements. Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The State Purchasing Bureau will be the sole judge of equivalency. A bidder may offer any brand which meets or exceeds the specification unless stipulated otherwise. When a specific manufacturer's brand is required, the Invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

V. How is a contract award made?

All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of Neb. Rev. Stat. §81-161. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid and do not improve the bidder's competitive position. All awards will be made in a manner deemed in the best interest of the State.

W. Does a bidder need to register with the Secretary of State/Tax Commissioner's office?

All bidders shall be authorized to transact business in the State of Nebraska. All bidders are expected to comply with all Nebraska Secretary of State registration requirements. It is the responsibility of the bidder to comply with any registration requirements pertaining to types of business entities (e.g. person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation or other type of business entity). The Bidder who is the recipient of 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 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. This must be accomplished prior to the award of the contract. Construction contractors are expected to meet all applicable requirements of the Nebraska Contractor Registration Act and provide a current, valid certificate of registration. Further, all bidders shall comply with any and all other applicable Nebraska statutes regarding transacting business in the State of Nebraska. Bidders should submit the above certification(s) with their bid.

X. How does a vendor protest an award decision by the State?

The "Protest/Grievance Procedure" is the policy used for commodities/goods purchases processed by the State. [See Protest/Grievance Procedure Exhibit 2.](#)

Y. How is the contract between the State and the bidder formed?

The bidder's signed Invitation to Bid shall constitute its offer to furnish commodities/goods to the State upon the terms and conditions contained therein. The delivery by the State of a signed contract or signed purchase order constitutes the State's acceptance of the bidder's offer, and completes the contractual agreement.

Z. Where does a contractor deliver commodities/goods when they have been awarded a purchase order/contract?

All deliveries shall be made to the point or points specified in the original Invitation to Bid.

1. F.O.B. Destination

The delivery charges have been included in the quoted price and prepaid by the vendor. Vendor is responsible for all claims associated with damages during delivery of product.

2. Inside Delivery

If the vendor is required to deliver beyond the dock, additional inside delivery charges may be incurred. These charges must be included on the Invitation to Bid form.

AA. What happens if commodities/goods received are not acceptable?

If commodities/goods fail to meet specifications, fail to conform to the vendor sample, or not in satisfactory condition when received by the State, the items shall be subject to rejection. Vendor will be responsible for the pick up of the commodities/goods and all associated costs.

BB. How does the State resolve unacceptable performance by vendors?

1. Vendor Performance Report - When commodities/goods fail to meet specifications, the discrepancy shall be reported by the receiving agency on a "Vendor Performance Report" to the State Purchasing Bureau for resolution. The State Purchasing Bureau will coordinate a resolution with the vendor and notify the ordering/receiving agency. Vendor Performance Reports become a part of the permanent record for that vendor.

2. Suspensions from Bidding - Agencies notify the State Purchasing Bureau of dissatisfaction with a vendor's performance by submitting a "Vendor Performance Report". Any vendor, whose performance has been reported unsatisfactory, will be contacted by State Purchasing Bureau for an opportunity to remedy the situation. Failure of the vendor, in the State's opinion, to satisfactorily remedy the situation may be cause for suspension from the bidders list and from bidding for a specified period of time. The State Purchasing Bureau will provide the vendor with written notification of removal, including the reasons for such removal and suspension action and its duration.

CC. Can a vendor be paid in advance of commodities/goods received?

Payments shall not be made until commodities/goods are received and accepted by the State.

DD. When does a vendor receive payment?

The State will render payment to vendor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the vendor as solely determined by the State. Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). The State may require the vendor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any commodities/goods provided by the vendor prior to receipt and acceptance by the State.

IV. ADDITIONAL CONSIDERATIONS

A. What miscellaneous terms and conditions may be included in an Invitation to Bid?

1. Discount

Prices quoted shall be inclusive of all trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed invoice or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

2. Taxes

Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by Neb. Rev. Stat. §77-2704 (l)(m) and must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

3. Bid Bond

The State Purchasing Bureau may specify in the Invitation to Bid that a vendor's bid be accompanied by a bid bond executed by a surety company. The amount of bond required will be specified in the Invitation to Bid. The bid bond shall be provided as protection to the State of Nebraska against the withdrawal of a bid and in payment of costs incurred should the successful bidder fail to enter into contract. After the award is made, the bid bonds shall be returned to those vendors who were unsuccessful. The bid bond of the successful vendor shall be returned after the award or upon receipt of a performance bond, if one is required.

4. Performance Bond

The State reserves the right to require a performance bond from the successful bidder, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess cost occasioned thereby.

5. Samples

When requested, samples shall be furnished at the bidder's expense prior to the opening of the bid, unless otherwise specified. Each sample must be labeled clearly and identify the bidder's name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities/goods or equipment which would be delivered if awarded the bid. The State of Nebraska reserves the right to request samples even though this may not have been set forth in the Invitation to Bid. Samples not destroyed in testing will be returned at bidder's expense, if requested, or will be donated to a public institution.

6. Lump Sum or All or None Bids

The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

7. Nebraska Technology Access Standards

Vendor agrees to ensure compliance with Nebraska Access Technology Standards. See website at: <http://www.nitc.state.ne.us/standards/accessibility>

8. Drug Policy

Bidder certifies that it maintains a drug free work place environment to ensure worker safety and workplace integrity. Bidder agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

B. Does the State of Nebraska give any preferences when determining a contract award?

1. Buy Recycled

Preference shall be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per Neb. Rev. Stat. §81-15,159. Such preference shall not be given when it would result in the purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

2. In-State Preferences

A resident bidder shall be allowed a preference against a non-resident 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 bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a non-resident bidder from a state which has no preference law, the resident bidder shall be awarded the contract as described in Neb. Rev. Stat. §73-101.01.