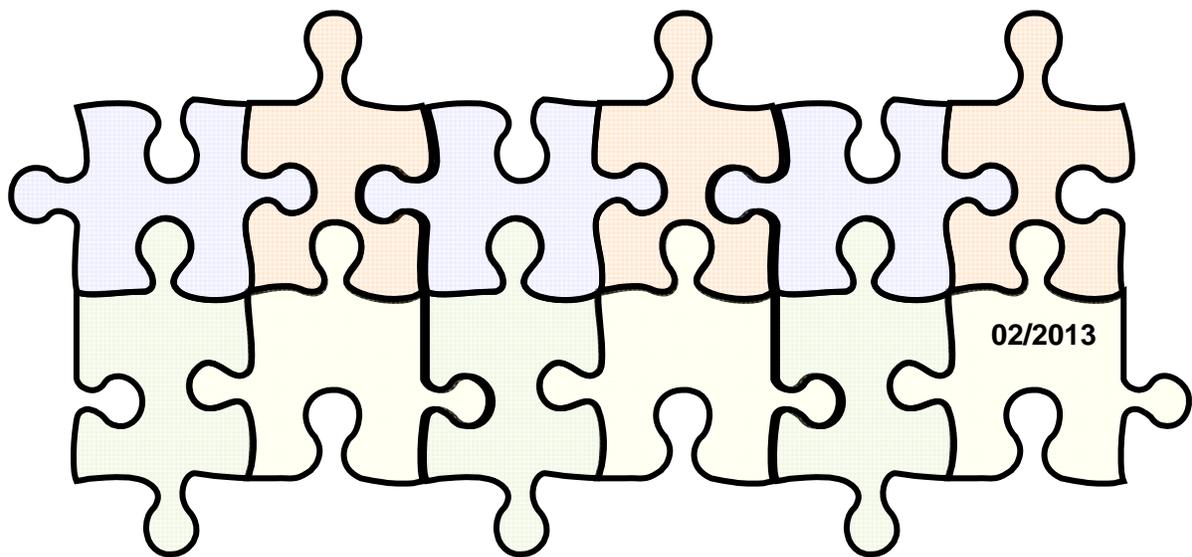


NEBRASKA  
**Administrative** Services  
Materiel / Purchasing Division

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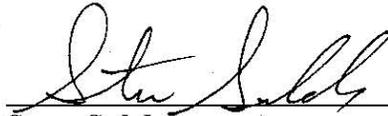
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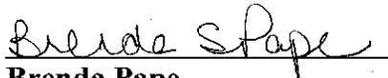
**To Our Bidders and Future Vendors:**

**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 services. 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 Olsky*  
*Julie Dabrydeen*  
*Jacky S. De Vries*  
*Judanne Siemer*  
*Bert R. Gray*  
*Marie Panning*  
*Cornie Heinrichs*  
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*Ruth Kucera*

**Materiel Division • Steve Sulek, Acting Administrator**

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# STATUTES

## What statutes govern the procurement of contractual services?

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

|                   |                                                                |
|-------------------|----------------------------------------------------------------|
| 73-101.01         | Resident bidder, defined; preference                           |
| 73-501            | Purposes of Sections                                           |
| 73-502            | Terms, Defined                                                 |
| 73-503            | Documentation; Requirements                                    |
| 73-504            | Competitive Bidding Requirements                               |
| 73-505            | State Agency Directors; Duties                                 |
| 73-506            | State Agency Contracts for Services; Requirements              |
| 73-507            | Exceptions                                                     |
| 73-508            | Pre-Approval; Required; When                                   |
| 73-509            | Pre-Process; Required; When; Procedure                         |
| 81-2401 - 81-2408 | Prompt Payment Act                                             |
| 84-712.01         | Public Records; Right of Citizens; Full Access; Fee Authorized |
| 84-712.05         | Records Which May be Withheld from the Public; Enumerate       |

## GLOSSARY OF TERMS

**Addendum:** Something added or deleted.

**Agency:** Any state agency, board, or commission other than the University of Nebraska, the Nebraska state colleges, the courts, the Legislature, or any officer or agency established by the Constitution of Nebraska.

**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 proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, 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 proposal, 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.

**Best and Final Offer (BAFO):** A second-stage bid in a public procurement for services.

**Bid:** The executed document submitted by a bidder in response to a Request for Proposal.

**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 proposal 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".

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

**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:** An agreement between two or more persons to perform a specific act or acts.

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

**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.

**Deviation:** Any proposed change(s) or alteration(s) to either the contractual language or deliverables within the scope of this Request for Proposals.

**Emergency:** An urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk.

**Evaluation Committee:** A committee (or committees) appointed by the requesting agency that advises and assists the procuring office in the evaluation of proposals.

**Evaluation of Proposal:** The process of examining a proposal after opening to determine the bidder’s responsibility, responsiveness to requirements, and to ascertain other characteristics of the proposal 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.

**Late Proposal:** A proposal received at the place specified in the solicitation after the date and time designated for all proposals to be received.

**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 proposals. 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-Proposal Conference:** A meeting scheduled for the purpose of providing clarification regarding a Request for Proposal and related expectations.

**Proposal:** The executed document submitted by a bidder in response to a Request for Proposal.

**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 a Request for Proposal 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 Proposal Opening:** The process of opening proposals, conducted at the date, time and place specified in the Request for Proposal, and in the presence of anyone who wishes to attend.

**Release Date:** Date of release of the Request for Proposal to the public for submission of proposal responses. Not to be confused with "Opening Date".

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

**Request for Information (RFI):** A general invitation to vendors requesting information for a potential future solicitation. The RFI is typically used as a research and information gathering tool for preparation of a solicitation.

**Request for Proposal (RFP):** All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals.

**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 proposal response which conforms in all respects to the solicitation document.

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

**Sole Source - Services:** A service 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 sole availability at the location required.

**Solicitation:** The process of notifying prospective bidders or offerors that the State of Nebraska wishes to receive proposals for furnishing services. The process may consist of public advertising, posting notices, or mailing Request for Proposals and/or Request for Proposal announcement letter to prospective bidders, or all of these.

**Solicitation Document:** Request for Proposal.

**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 services 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 requests for contractual services?

Agency requisitions for services are assigned to the buyers upon receipt by the State Purchasing Bureau Procurement Manager.

## 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 Request for Proposal for Contractual Services does not need to be registered as a vendor with the State Purchasing Bureau. However, awarded bidder(s) not registered with the 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 a Request for Proposal?**

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 services?**

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 Request for Proposals for the services 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 a Request for Proposal solicitation letter.

### E. **How does the State solicit requests for services from vendors?**

Requests are solicited from vendors by means of a Request for Proposal. All information pertinent to a Request for Proposal can be found on the internet at: <http://www.das.state.ne.us/materiel/purchasing/rfp.htm> (mandatory if over \$50,000.00).

Requests for Proposals in excess of \$50,000.00 must be advertised on the State Purchasing Bureau's website. Public Notices are also placed in at least one newspaper with a large circulation for at least one day. It is recommended that the advertisement be placed in a local newspaper as well.

All proposed state agency contracts for services in excess of \$50,000.00 shall be bid in the manner prescribed by the "Agency Procurement Manual for Services" or a process approved by the Director of Administrative Services. Bidding may be performed at the state agency level or by the State Purchasing Bureau. Any state agency may request that the State Purchasing Bureau conduct the competitive bidding process.

All state agencies shall comply with the review and competitive bidding processes provided in Neb. Rev. Stat. §73-504. Unless otherwise exempt, no state agency shall expend funds for contracts for services without complying with Neb. Rev. Stat. §73-504.

Except as provided in Neb. Rev. Stat. §73-507 all proposals for sole source contracts for services in excess of \$50,000.00 shall be preapproved by the State Purchasing Bureau except in emergencies. In case of an emergency, contract approval by the state agency director is required.

**F. How does the State procure services?**

The State Purchasing Bureau reviews agency requests for services in excess of \$50,000.00. The State Purchasing Bureau may be asked by an agency to conduct the procurement of services for the agency. An agency may elect to bid services on its own, but must adhere to the procurement rules and processes prescribed in the "Agency Procurement Manual for Services"; alternatively, the agency may request the State Purchasing Bureau to complete the bid process. Statutory exemptions may apply.

**G. What are the different methods for the procurement of services?**

The State Purchasing Bureau uses the following methods to procure services: Sole Source, Emergency, Competitive Formal Sealed Proposals, Competitive Informal Proposals and Direct Purchases of services.

**1. Sole Source Purchases**

A service 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 the uniqueness of its service or sole availability at the location required. All sole source purchases must be pre-approved by the State Purchasing Bureau for services in excess of \$50,000.00.

Services less than \$50,000.00 are not required to be reviewed or approved by AS Materiel Division and are processed at the agency level.

**2. Emergency Purchases**

Emergency means necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is at risk. In case of an emergency, contract approval by the state agency director is required.

**3. Competitive Formal Sealed Proposals**

For the procurement of services, Requests for Proposals are secured by means of a formal competitive bid process with a public opening as specified in the Request for Proposal. The formal process must be used for service purchases in excess of \$50,000.00, unless exempt or agency has determined the procurement to be an emergency.

**4. Competitive Informal/Direct Proposals**

For the procurement of services, Requests for Proposals may be secured by means of an informal bid process. The informal process is used for service purchases less than \$50,000.00.

### III. INFORMATION RELEVANT TO THE REQUEST FOR PROPOSAL 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 Requests for Proposals – Current Bid Opportunities are categorized under “Bid Opportunities Processed by the State Purchasing Bureau” or “Bid Opportunities Processed by State Agencies”.

#### B. How does a vendor submit questions regarding a Request for Proposal?

Any questions regarding a Request for Proposal, which is processed by the State Purchasing Bureau, must be directed to the State Purchasing Bureau to the attention of the buyer in accordance with the Schedule of Events. It is preferred that questions be sent via e-mail to [as.materielpurchasing@nebraska.gov](mailto: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 Request for Proposal.

Any questions regarding a Request for Proposal processed by a state agency must be directed to the processing agency in accordance with the contact information provided. Responses to the questions will be posted on the agency website (optional) and/or State Purchasing Bureau website (mandatory if over \$50,000.00).

#### C. What is the purpose of a pre-proposal conference?

A pre-proposal conference may be scheduled by the State Purchasing Bureau or by the processing agency for the purpose of explaining the scope of service or other aspects of the Request for Proposal and allows for questions by the attending vendors. The conference may require mandatory attendance. Verbal responses provided to questions during the pre-proposal conference shall not be binding on the State of Nebraska.

#### D. How does the State inform vendors of information regarding a Request for Proposal?

Information regarding a Request for Proposal will be posted on the agency website (optional) and/or State Purchasing Bureau website (mandatory if over \$50,000.00). The State Purchasing Bureau 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 Request for Proposal.

#### E. Can bidders collaborate in developing proposal responses?

The bidder’s signature on the Request for Proposal 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.

#### F. What miscellaneous terms and conditions may be included in a Request for Proposal?

##### 1. Penalty

In the event that the contractor fails to perform any substantial obligation under the contract, the State may withhold all monies due and payable to the contractor, without penalty, until such failure is cured or otherwise adjudicated. Failure to meet the dates stipulated in the contract for the deliverables may result in an assessment of penalty due the State until the deliverables are approved. Contractor will be notified in writing when penalty will commence.

- 2. Retainage**  
The State may withhold an amount or a percentage of each payment due as retainage. The entire retainage amount will be payable upon successful completion of the project. Upon completion of the project, the contractor will invoice the State for any outstanding work and for the retainage. The State may reject the final invoice by identifying the specific reasons for such rejection in writing to the contractor within 45 calendar days of receipt of the final invoice. Otherwise, the project will be deemed accepted and the State will release the final payment and retainage in accordance with the contract payment terms.
- 3. Bid Bond**  
The State Purchasing Bureau may specify in the Request for Proposal that a vendor's proposal be accompanied by a bid bond executed by a surety company. The amount of bond required will be specified in the Request for Proposal document. The bid bond shall be provided as protection to the State of Nebraska against the withdrawal of a proposal and in payment of costs incurred should the successful bidder fail to enter into contract. After the contract 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 contract award or upon receipt of a performance bond, if one is required.
- 4. Performance Bond**  
The selected contractor may be required to supply a certified check or a bond executed by a corporation authorized to contract surety in the State of Nebraska, payable to the State of Nebraska, which shall be valid for the life of the contract to include any renewal and/or extension periods. The check or bond, if required, will guarantee that the selected contractor will faithfully perform all requirements, terms and conditions of the contract. Failure to comply shall be grounds for forfeiture of the check or bond as liquidated damages. Amount of forfeiture will be determined by the agency based on loss to the State. The bond or certified check will be returned when the service has been satisfactorily completed as solely determined by the State, after termination or expiration of the contract.
- 5. Taxes**  
The State is not required to pay taxes of any kind and assumes no such liability as a result of this solicitation. Any property tax payable on the contractor's equipment which may be installed in a state-owned facility is the responsibility of the contractor.
- 6. Nebraska Technology Access Standards**  
Contractor shall review the Nebraska Technology Access Standards, found at <http://www.nitc.state.ne.us/standards/accessibility> and ensure that products and/or services provided under the contract comply with the applicable standards. In the event such standards change during the contractor's performance, the State may create an amendment to the contract to request that contract comply with the changed standard at a cost mutually acceptable to the parties.
- 7. Drug Policy**  
Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

**G. How should a proposal response be submitted to the State?**

Proposals 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). Proposals must reference the Request for Proposal number and be sent to the specified address. No electronic, e-mail, fax, voice, or telephone proposals will be accepted.

**H. Can a proposal response be changed after submission to the State?**

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

**I. Can a proposal be recalled after it has been submitted to the State?**

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

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

The sealed proposals will be publicly opened and the bidding entities announced on the date, time and location shown in the Schedule of Events. Proposals will be available for viewing by those present after the proposal opening. Vendors may also contact the State to schedule an appointment for viewing proposals after the opening date.

**K. What if a bidder's proposal is not received by the opening date and time?**

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

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

Data contained in the proposal and all documentation provided therein, become the property of the State of Nebraska and the data becomes public information upon opening the proposal. 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 proposal. The separate package must be clearly marked PROPRIETARY on the outside of the package. Bidders may not mark their entire Request for Proposal as proprietary. Bidder's cost proposals 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.

**M. What happens to the proposals after the proposal opening?**

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

**N. 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.

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**O. How does the State determine which proposals will be evaluated?**

All responses to a Request for Proposal which fulfill all mandatory requirements will be evaluated. The mandatory requirements are outlined in the Request for Proposal.

**P. What is the criteria for evaluating proposals?**

All responses to a Request for Proposal which fulfill all mandatory requirements will be evaluated. Each category will have a maximum possible point potential. The State will conduct a fair, impartial and comprehensive evaluation of all proposals in accordance with the criteria set forth below. The criteria for determining a responsible bidder shall include but not be limited to:

1. Executive Summary;
2. Corporate Overview shall include but is not limited to;
  - a. the ability, capacity and skill of the bidder to deliver and implement the system or project that meets the requirements of the Request for Proposal;
  - b. the character, integrity, reputation, judgment, experience and efficiency of the bidder;
  - c. whether the bidder can perform the Contract within the specified time frame;
  - d. the quality of bidder performance on prior Contracts;
  - e. such other information that may be secured and that has a bearing on the decision to award the Contract;
3. Technical Approach; and
4. Cost.

**Q. When does the evaluation criteria and a list of respondents become public information?**

Evaluation criteria will become public information at the time of the Request for Proposal opening. Evaluation criteria and a list of respondents will be posted on the agency website (optional) and/or State Purchasing Bureau website (mandatory if over \$50,000.00). Evaluation criteria will not be released prior to the proposal opening.

**R. Who is responsible for evaluating the proposals?**

Proposals will be independently evaluated by members of the Evaluation Committee(s). The committee(s) will consist of staff with the appropriate expertise to conduct such proposal evaluations. Names of the members of the Evaluation Committee(s) will not become public information.

**S. How is the contract award made?**

All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Request for Proposal. The State reserves the right to reject any or all proposals, wholly or in part, or to award to multiple bidders in whole or in part, and at its discretion, may withdraw or amend the Request for Proposal at any time. The State reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, 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. The Request for Proposal does not commit the State to award a contract. If, in the opinion of the State, revisions or amendments will require substantive changes in proposals, the due date may be extended.

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

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.

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

The "Protest/Grievance Procedure" is the policy used for service purchases processed by the State. [See Protest/Grievance Procedure Exhibit 1.](#)

**V. 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.

**W. How is the contract between the State and the bidder formed?**

The bidder's signed proposal shall constitute its offer to furnish services 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.

**X. How does the State resolve unacceptable performance by vendors?**

**1. Vendor Performance Report**

When services performed fail to meet the scope of service, 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.

**Y. Can a contractor be paid in advance of services performed?**

Payments shall not be made until contractual deliverable(s) are received and accepted by the State.

**Z. When does a contractor receive payment?**

The State will render payment to contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the contractor 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 contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any services provided by the contractor prior to the effective date, and the contractor hereby waives any claim or cause of action for any such services.