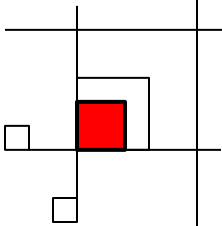




Procedural Manual for Capital Construction Projects

State of Nebraska
Department of Administrative Services
State Building Division
December 2005 (revised December 2023)



Procedural Manual for Capital Construction Projects

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INTRODUCTION and STANDARDS

A. Purpose

This “Procedural Manual” is to assist State agencies, State Building Division (SBD), professional consultants, and the building construction industry in understanding and implementing the procedures required for successfully processing a capital construction project for the State of Nebraska.

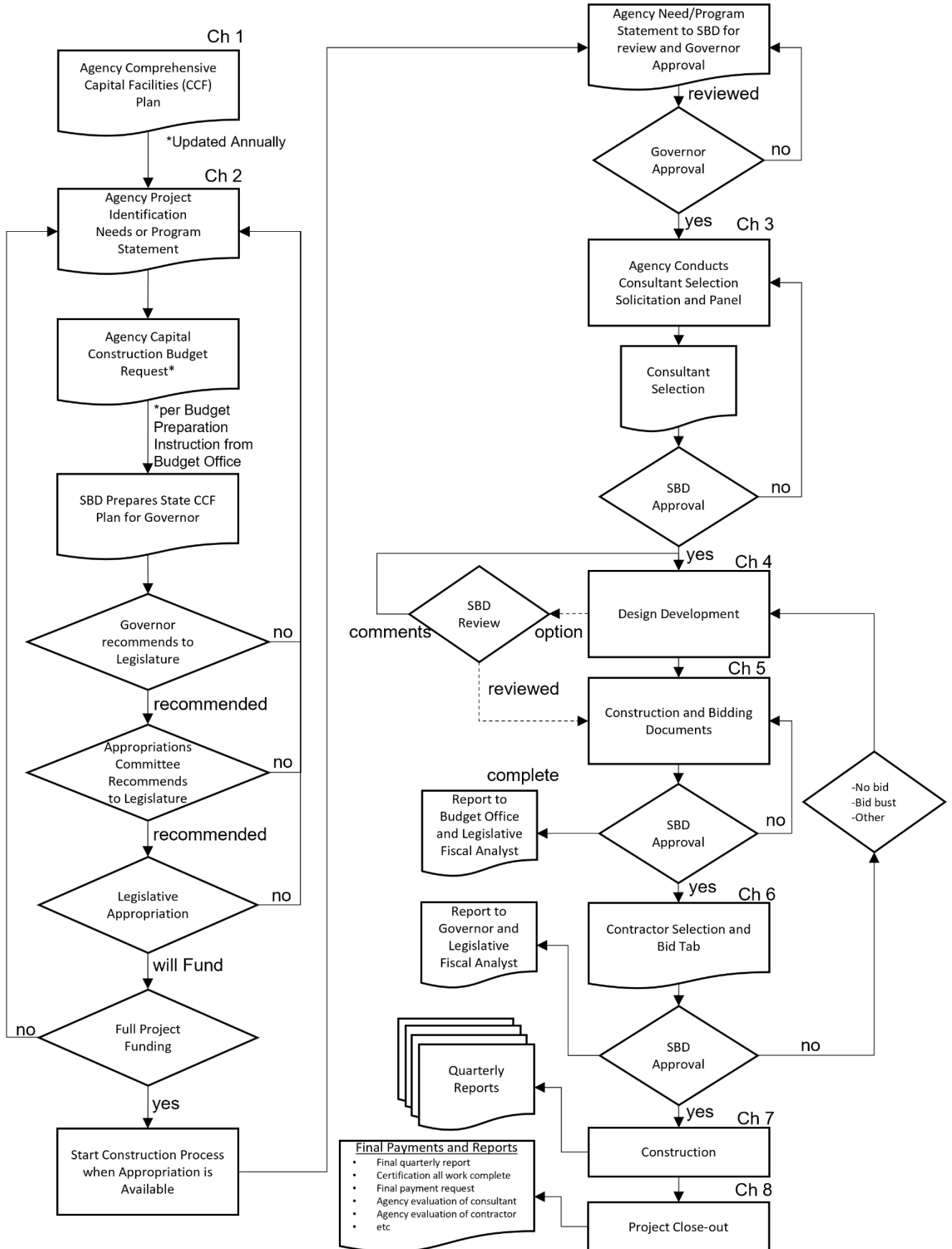
B. Statutory Authority

Key statutes pertaining to each chapter are listed at the beginning of the chapter. All current statutes are located at: <https://nebraskalegislature.gov/laws/browse-statutes.php>
Rules and regulations pertaining to SBD are located at:
https://www.nebraska.gov/rules-and-regs/regsearch/Rules/index.cgi?l=ADM_Services_Dept_of&t=Title-007_State_Building_Division.

C. Capital Construction Budget and Appropriation Cycle

1. Agency Request - Budget requests submitted in accordance with the “Budget Preparation Instructions for Capital Construction Projects” (Appendix N). A request may be for:
 - a. Planning funds only
 - b. Total project funding over one fiscal year
 - c. Planning funds the first year and construction funds the following year(s)
 - d. Construction funds for a project whose program statement and/or documents have been previously submitted
 - e. Reaffirmation of funds previously authorized, but not yet appropriated
2. Amended Budget Request - To revise a request between September 15th and the end of the Legislative Session, the budget request documents must be officially amended according to the procedures outlined in the current edition of the “Budget Preparation Instructions for Capital Construction Projects” (Appendix N).
3. Federal Requirements - It is the Agency’s responsibility to follow all federal requirements for projects which are funded partially or completely by federal funds. Any conflicts between federal and state requirements shall be referred to SBD.

Nebraska Capital Construction Process



A. Definitions

Agency	Any State board, council, commission, or department responsible for executing the project under consideration
DAS	Department of Administrative Services
Schematic Design (SD)	First phase of the design process. Programming and concept designs are translated into architectural and spatial designs.
Design (DD) Development	Second phase of design process where architectural, structural, mechanical, and electrical designs are developed
Construction Documents (CD)	Third phase of design process where designs are finalized for construction
Estimated Total Project Costs	The calculated dollar amount for the complete construction of a specific project including but not limited to: program planning, professional fees, construction, fixed equipment, moveable equipment, special or technical equipment, site improvements, land acquisition, artwork (for applicable projects), environmental remediation, contingency, and other costs
Firm	Any individual, partnership, corporation, association, or other legal entity permitted by law to practice architecture, landscape architecture, engineering, or land surveying in the State of Nebraska
Fixed Limit Construction Costs	Maximum dollar amount to be expended for a project which has specific funding either partially or totally through an appropriation of State funds
Funding Sources	Amounts and/or percentages from each source including: State, Federal, Task Force for Building Renewal, Revenue, or other sources
Funding Specifics	The fiscal details defining purpose, time and amount for appropriated funds including but not limited to the Legislative Bill number and section, year and legislative session, agency number, program number and amount(s)
Need Statement	Initial document, typically prepared by the agency, utilizing the program statement outline as the initial budget estimate for capital funding
N.S.P.E.	National Society of Professional Engineers
Owner	State of Nebraska
Preliminary Plans	Design development documents and drawings. (also see working drawings)
Professional Consultant	Person or organization professionally qualified and licensed in Nebraska to perform architectural, landscape architectural, engineering or land surveying

Program Statement	Detailed facility planning document, typically prepared by a professional consultant, serves as the basis for project funding and includes a narrative and summary of the project with supporting information
Project	Capital facilities planning or construction executed by an agency. May consist of a single construction project, a grouping of minor construction, rehabilitation, restoration, or renovation activities and/or a grouping of substantially similar construction, rehabilitation, restoration, or renovation activities
Project Manager	An Agency Director designee who is responsible for administration of a project and coordination with SBD, the agency's professional consultant(s), and the contractor(s)
SBD	State Building Division
Timeline	Estimated dates for key construction milestones including dates for project approval and funding, professional consultant selection, needs/program statement approval, design development document submittal, construction documents approval, construction bid opening, construction contract approval, award of contract and start of construction, and completion of construction
Total Project Costs	Refinement and updated values for Estimated Total Project Costs
Working Drawings	Construction documents and drawings

B. Roles and Responsibilities

Agency Responsibilities (* indicates those able to be delegated to professional consultant)

1. Coordinate with SBD
2. Select professional consultant(s) (if over the specified threshold)
3. Develop their agencies comprehensive capital facilities plan*
4. Fund request(s)
5. Program planning, including full information for the requirements of the project*
6. Define project information including:
 - a. Site - a certified land survey, utility information, soil test reports*
 - b. Laboratory tests, inspections, and reports*
 - c. Legal, accounting and insurance counseling services
 - d. Project budget and funding*
 - e. Project schedule*
7. Designate an agency project manager, if authorized
8. Submit appropriate approvals as specified or required by this manual*
9. Gain approval by other governmental agencies as required by state statutes (Fire Marshall, Electrical Inspector, Labor Department, etc.)*
10. Comply with state building codes and energy codes (Appendix M)*
11. Procure artwork, when applicable, with the Nebraska Arts Council (Appendix H)
12. Issue legal and public notices
13. Certify to SBD compliance with State Statute 81-1108.43 before any payments
14. Process payments to the professional consultants and the contractors
15. Submit quarterly progress and final reports to SBD
16. Prepare final evaluations of the project, the contractor, and the professional consultant
17. Document final acceptance of the project
18. Coordinate with the State Historical Society
19. Comply with all applicable laws, regulations, and this manual

State Building Division Responsibilities

To coordinate statewide facilities planning, construction, administration and promulgate rules and regulations to carry out the following:

1. Assist the Governor in the preparation of capital construction budget recommendations
2. Act as liaison with Legislature (to make sure all policy reflects separation of power)
3. Establish, coordinate, and maintain state-wide comprehensive capital facilities plan
4. Participate and approve professional consultant selection
5. Review and submit program statements to Governor for approval
6. Review and approve planning and construction documents
7. Review and approve construction bids and contractor contracts
8. Maintain land and building inventory for all state-owned and occupied facilities and review the proposals for naming such sites and structures
9. Consolidate and submit quarterly construction progress reports to the Governor
10. Submit final report on each project to the Governor
11. Project Management for agency's not authorized construction authority including:
 - a. Maintaining contact with agency designated representatives. Conduct inspections of projects for proper execution of time-cost schedules and contract performance

- b. Coordinating with DAS Risk Management Division to establish insurance requirements with minimum limits for construction activities (Workers' compensation, builders risk insurance, public liability and automobile, consultant's professional liability)
- c. Managing scope, budget, and schedule of projects in compliance with the program statement
- d. Reviewing change order documents and progress payment orders
- e. Performing final acceptance inspections and evaluations
- f. Reviewing and certify payments to contractors over \$100,000 including final payments regardless of the amount.

Professional Consultants' Responsibilities

May include, but are not limited to:

1. Preparation of the agency Comprehensive Capital Facilities Plan – if contracted to develop, review and/or update
2. Preparation of the project Program Statement – if contracted to develop, review and/or update for an agency
3. Completion of Schematic Design - SD (33% design completion) including:
 - a. Preparation of SD documents
 - b. Statement of conformance between cost estimate and fixed budget for construction
 - c. Comments on project budget requirements
 - d. Update construction cost estimate for agency/SBD review and approval before progressing to Design Development
 - e. Preparation of alternative approaches to the design of the project
 - f. Develop statement of conformance with CCFP and program statement
4. Completion of Design Development - DD (65% design completion) including:
 - a. Preparation of Design Development documents
 - b. Update statement of conformance between cost estimate and fixed budget for construction
 - c. Update construction cost estimate for agency/SBD review and approval before progressing to Construction Document development
 - d. Update statement of conformance with CCFP and the program statement
 - e. Preparation of statement of compliance with the energy standards as adopted by the State of Nebraska (Appendix M)
 - f. Coordination with the Nebraska Arts Council (for applicable projects) (Appendix H)
5. Completion of Construction Documents (100% design completion) including:
 - a. Development of detailed drawings and specifications
 - b. Certification of conformance with approved DD documents and program statement
 - c. Certification of conformance with fixed budget requirements
 - d. Update construction cost estimate for agency/SBD review and approval
 - e. Submitting plans for review to the State Fire Marshal and applicable code authorities
 - f. Certification of compliance with State Building Code (IBC) and note any variances
 - g. Submission of Storm Water Pollution Prevention Plan (SWPPP) outline (as required for new construction or additions)
6. Preparation of Bidding and Construction Contract documents including:
 - a. Preparation of bid documents and addenda
 - b. Assistance to the agency in obtaining bids
 - c. Assistance to the agency in reviewing, awarding, and preparing contracts for construction

7. Execution of Construction Phase including
 - a. Administration of construction documents
 - b. Review and approval of shop drawings
 - c. Periodic site inspections and reports per Agreement
 - d. Respond to Requests for Information (RFI's)
 - e. Prepare Architect Supplemental Instructions (ASI's) and Construction Proposal Requests (CPR's)
 - f. Review and approval of certificates of payment by the contractor
 - g. Preparation of cost estimates for each Cost Proposal Request (CPR)
 - h. Preparation and recommendations for change orders
 - i. Issuance of certificate of substantial completion
 - j. Approval of final certificate of payment
 - k. Review and ensure warranties and operating manuals are provided to the agency
 - l. Preparation of written interpretations in the event of disputes between the State of Nebraska and the contractor
 - m. Provide additional services as specifically requested in writing by the agency in accordance with the agreement
 - n. Review end-of-period warranty conditions and report findings (eleventh-month walk through)

Construction Contractor Responsibilities

The construction contractor's responsibilities include but are not limited to:

1. Securing all permits required for the project
2. Familiarity with existing site conditions including, but not limited to utilities, easements, appurtenances to the project
3. Coordinating all portions of the work under contract
4. Providing all labor, materials, equipment, and supervision necessary for the safe, proper execution and completion of the work
5. Compliance with all codes, laws, ordinances, rules, regulations, and orders relating to the project, including coordination with Fire Marshal's office and State Electrical Inspector
6. Compliance with OSHA guidelines and safety requirements
7. Coordination with the agency, and other contractors for the use of the site
8. Compliance with the project schedule
9. Submission of applications for payment as stipulated in the contract
10. Providing and maintaining insurance as required in the project's specifications
11. Providing the agency all operating instructions, maintenance manuals, and warranties required by the contract documents
12. Honoring warranties: including warranted deficiencies found prior to the end of the warranty period
13. Compliance with all contractual requirements, including submission of construction schedule, list of subcontractors, submittals, etc.

CHAPTER 1 - COMPREHENSIVE CAPITAL FACILITIES PLAN (CCFP)

A. Introduction

All agencies are required to prepare and submit a director-approved, agency-wide CCFP covering short range planning (6 years - coinciding with three biennial budget periods) and long-range projections (7-20 years) prior to submitting a major capital construction project for funding. This plan must be updated or revised when a proposed project is not included in the previously submitted CCFP or when revisions to projected programmatic needs would significantly affect the plan.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (Facilities planning, construction and admin)
2. *Neb. Rev. Stat. § 81-1114.01* (Comprehensive capital facilities planning)
3. *Neb. Rev. Stat. § 81-1108.16* (Comprehensive capital facilities planning)
4. *Neb. Rev. Stat. § 81-1108.41* (Comprehensive capital facilities planning)

C. Outline for Comprehensive Capital Facilities Plan:

1. Agency
2. List of existing facilities including the following details:
 - a. Utilization of facility
 - i. Space utilization (% of useable)
 - ii. Original intended purpose vs current purpose
 - iii. Population projections
 - b. Analysis of facilities
 - i. Type of space (office, warehouse, shop, etc)
 - ii. Condition of space
 - iii. Age
3. A projection of future programmatic needs
4. Identification of projects to meet needs in C.3. above
 - a. New construction
 - b. Additions to existing facilities
 - c. Renovation or restoration of existing facilities
 - d. Land or building acquisition
 - e. Site improvements
 - i. Parking and streets
 - ii. Utilities
 - iii. Landscaping
 - f. Deferred renewal, ADA modifications, energy conservation, fire, and life safety
 - g. Leased space or property
 - h. Demolition, abandonment, or replacement of existing facilities
 - i. Estimated square footage of project by type (new construction, renovation, addition, etc.)
 - j. Estimated total project costs and year of estimate
 - k. How the projected projects link to the Mission Statement and Governing Values for the State of Nebraska Capital Construction

D. CCFP Submission Process - Submit CCFP to SBD and Legislative Fiscal Analyst

CHAPTER 2 – NEED AND PROGRAM STATEMENT

A. Introduction

The Need Statement is the initial budget estimate for capital funding and follows the program statement outline. It may contain estimates and less detail than the program statement. For projects whose estimated total cost is less than the threshold (see Appendix I) only a need statement is required, and this initial request may include total funding.

A Program Statement is required when a project's estimated total project cost exceeds the threshold amount (see Appendix I). It can be submitted in lieu of a needs statement if the agency intends to immediately request funds for planning and construction. An agency may also request planning funds the first year and design development and construction funds the following year(s).

An Agency may contract with a consultant to develop the Need or Program Statement. This does not guarantee the consultant's selection for project design. The competitive consultant selection process, (chapter 3) must be used.

The Need or Program statement for a project must be submitted to SBD and Legislative Fiscal Office on or before September 15th of the year prior to the initiation of an appropriation for drawings and construction. No contract for planning, design or construction of a new facility, or major modification or repair of an existing facility utilizing a state appropriation may be initiated unless an acceptable program statement has been approved by the Governor.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (Facilitates planning, construction, and administration)
2. *Neb. Rev. Stat. § 81-1108.16* (Review program statements and contract)
3. *Neb. Rev. Stat. § 81-1108.41* (Program statement)

C. Outline for Program Statements

1. Project description: A narrative statement justifying and describing the project, background, history, and programmatic purpose and objectives the project will satisfy. Include county, town or campus, approximate location of the proposed site and other sites considered.
2. Compatibility of the Project:
 - a. With the state CCFP
 - b. With the agency CCFP
 - c. On space utilization of other facilities under the control of the agency
 - d. With functions/purpose of existing facilities as they relate to the proposed project
3. Future impact of the project on the agency:
 - a. Programmatic needs
 - b. Demand for utilities greater than current capacity
 - c. Parking needs
 - d. Street and road needs
 - e. Site acquisition needs

4. Facility functions and purpose requirements:
 - a. Activity identification and analysis
 - b. Estimated gross square footage of facility including allocations for primary space, mechanical space, corridors, entryways, restrooms, etc. and basis for square footage planning parameters
 - c. Projected occupancy/use levels
5. Analysis of existing facilities as they relate to the proposed project
 - a. Programmatic deficiencies
 - b. Physical deficiencies
 - c. Space utilization including re-utilization, demolition and/or renovation
6. Specific or unique project facility requirements
 - a. Construction type
 - b. Heating and cooling systems
 - c. Life Safety/ADA
 - d. Historic or architectural significance
 - e. Phasing
 - f. Future expansion
 - g. Other (e.g., IBC & NFPA codes)
7. Equipment Requirements
 - a. List of available equipment for reuse (if applicable)
 - b. Additional equipment (if applicable)
 - i. Fixed equipment
 - ii. Moveable equipment
 - iii. Special or technical equipment
8. Project budget and fiscal impact
 - a. Total estimated non-construction costs including but not limited to:
 - i. Design services including; type A-investigation services, type B-design and bid services, and type C-construction observation services
 - ii. Design contingency
 - iii. Commissioning
 - iv. Furniture, Fixtures, Equipment (FFE)
 - v. Special inspections
 - b. Total estimated construction cost and contingency – specify recognized standards, comparisons and sources used to develop and the month/year of estimate
 - c. Total funds required
 - d. Funding sources
 - e. Fiscal year(s) of expenditures for project duration
 - f. Fiscal Impact based upon first full year of operation (include proposed funding sources and percentage of each)
 - i. Estimated additional operations and maintenance costs per year
 - ii. Estimated additional programmatic costs per year
 - iii. Other costs
 - Cost to renovate vacated space
 - Cost to operate vacated space
 - Related costs
9. Timeline, noting standard construction milestones

D. Program Statement Approval Process

1. Submit program statement to SBD
2. SBD will prepare the memorandum and recommendation, manage the routing, and forward sequentially to each office below for signature
 - a. Agency Requesting
 - b. Budget Office
 - c. DAS Director
 - d. Governor for approval / disapproval
3. Report will be returned to the agency with notice on how to proceed and copies submitted to Legislative Fiscal Office and Budget Office.

CHAPTER 3 - PROFESSIONAL CONSULTANTS SELECTION PROCESS

A. Introduction

The professional consultant's selection process provides managerial control over the competitive negotiations for the acquisition of services from professional consultants.

B. Statutory Authority

1. *Neb. Rev. Stat. § 33-141 - 33-142* (Rates for legal notices)
2. *Neb. Rev. Stat. § 73-101 - 73-105* (Public lettings)
3. *Neb. Rev. Stat. § 81-1108.16* (SBD review of contracts)
4. *Neb. Rev. Stat. § 81-1108.41* (Review, reports, and approval of contracts)
5. *Neb. Rev. Stat. § 81-1114* (Submission to Legislative Fiscal Analyst)
6. *Neb. Rev. Stat. § 81-1701 - 81-1721* (NE Consultant's Competitive Negotiation Act)

C. Legal Requirements

1. The selection process applies to all state agencies.
2. Required for projects whose total cost is estimated to exceed the threshold (see Appendix I) and/or consultant service fees exceed the threshold amount.
3. Projects with a total construction cost less than the threshold (see Appendix I) may select a consultant, without competitive selection, from the open-ended agreement (see Appendix J) consultants list.
4. The selection process does not apply to projects for which the agency is able to reuse existing drawings, specifications and other documents from a prior project and such documents are owned by the state.

D. Information Statements

Firms are encouraged to annually submit a statement of qualifications and performance data to the SBD. SBD will maintain performance data and qualification statements for use by all state agencies.

E. Selection Process (Considerations, Interviews)

1. Selection Committee: The committee designated by the agency shall have at least one person whose profession represents the particular field of endeavor being considered. SBD recommends the committee to have three to five members with at least one from the agency and one representing SBD.
2. Public Notice: The public notice includes a general description of the project and how firms apply. Publish the public notice in a statewide publication and in the locality of the project. The public notice should be published a minimum of one time at least 15 calendar days prior to the deadline for receipt of proposals.
3. The selection committee shall receive and evaluate all prospective consultant's letters of interest.
4. Firms responding should prepare additional information for the project as specified by the selection committee.

5. The selection committee will consider the following qualifications in selecting three to seven firms for interviews:
 - a. Ability of proposed professional personnel to be assigned to the project
 - b. Past performance on projects of the agency or other agencies
 - c. Willingness to meet time and budget requirements
 - d. Firm's geographic location from project
 - e. Recent, current, and projected workload of the firm
6. Interviews will be scheduled with the selected firms. Interviews may include:
 - a. Qualifications of key personnel to be assigned to the project
 - b. Approach to the project development
 - c. Design philosophy as it relates to the project
 - d. Ability to furnish required services within the time and budget restraints
 - e. Identifying portions of the work to be performed by other consultants
 - f. Relevant experience with similar projects
7. The contract (Appendix A) will be awarded to the highest scoring firm. If an agreement cannot be reached, the agency may contract with the next most qualified bidder.

F. Contract Review and Approval

1. The Agency submits the following to SBD:
 - a. The contract
 - b. Approval from agency's general counsel
 - c. Certification of contract with Nebraska Consultants Competitive Negotiation Act
2. SBD will return the report to the agency with notice on how to proceed. Copies will be submitted to the Budget Office and Legislative Fiscal Office.

CHAPTER 4 - DESIGN DEVELOPMENT DOCUMENTS

A. Introduction

During the Schematic Design (SD) and Design Development (DD) phases of a project, the professional consultant provides drawings and other documents to fix and describe the size and character of the entire project as to structural, mechanical, and electrical systems, materials and such other essentials as may be appropriate.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (SBD review planning and construction documents)
2. *Neb. Rev. Stat. § 81-1108.41* (SBD review at completion of design phases)
3. *Neb. Rev. Stat. § 81-1114.02* (Preliminary plans)

C. Schematic (SD) and Design Development (DD) Documents

1. Design Plans:
 - a. Site
 - b. Architectural
 - c. Structural
 - d. Mechanical and electrical
 - e. Other
2. Design Specifications:
 - a. Bidding and contract approach (traditional bidding, construction management at risk, etc.)
 - b. Outline Specifications (All divisions applicable to the project)
3. Program Statement Versus Design (SD, DD, or CD) Analysis
 - a. Comparison of program vs. design space categories (square footage)
 - b. Explanation and justification for major variances from program specifications and special design considerations
4. Code and Regulatory Agency Compliance
 - a. Designed to current Nebraska Energy and Building Code (Appendix M)
 - b. Historic Buildings - No alterations to buildings should be made without review and comment by the State Historic Preservation Officer
 - c. Compliance with the Governor's Policy on Tree Removal (Appendix L)
 - d. Notification of any other code or regulatory issues affecting the project
 - e. Public notices or hearings as required or requested
 - f. Agency specific accreditation standards
5. Revised budget (compared to program statement Ch 2-C.8.a)
6. Updated construction cost estimate, reviewed and approved before next phase
7. Revised Timeline (compared to program statement Ch 2-C.9)

D. Design Development Review Process

1. The agency may submit the Design Development Documents to SBD for review
2. SBD will review documents and return questions or comments within 30 days. If SBD fails to respond within 30 days, the agency may proceed with contract documents. This review may occur concurrently with the preparation of contract documents.

CHAPTER 5 - CONSTRUCTION DOCUMENTS

A. Introduction

During this phase, the consultant provides drawings and specifications detailing the requirements for construction and the necessary bidding information including preparation of bidding forms and contract documents.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (SBD review of construction documents)
2. *Neb. Rev. Stat. § 81-1108.41* (SBD review of construction documents)

C. Format for Construction Document Submission

The Design Development outline for documents is used for submitting the construction documents with additional detailed instructions to bidders, bid form and other forms.

D. Construction Documents Review Process

1. Agency memo to SBD includes:
 - a. Brief narrative description of the project
 - b. Funding specifics
 - c. Timeline
 - d. Budget breakout
 - e. Statement of compliance with the program statement highlighting any significant variances
 - f. A digital set of construction documents (plans and specifications)
2. SBD will return the report to the agency with notice on how to proceed. Copies will be submitted to the Budget Office and Legislative Fiscal Office.

CHAPTER 6 - BIDDING AND CONSTRUCTION CONTRACT PHASE

A. Introduction

These project bidding and the construction contract guidelines establish fair and equitable construction cost amounts for projects generally involving the provision of both material and labor to produce a custom-made product.

B. Statutory Authority

1. *Neb. Rev. Stat. § 73-101 thru 73-105* (Public Letting)
2. *Neb. Rev. Stat. § 81-1108.16* (SBD review of construction contracts)
3. *Neb. Rev. Stat. § 81-1108.43* (Capital construction acts prohibited)
4. *Neb. Rev. Stat. § 81-1114* (SBD power, duties, responsibilities)
5. *Neb. Rev. Stat. § 72-801 thru 72-803* (Public buildings plans and use)

C. Bidding Process by Project Classification

1. Major Capital Construction Project - Total project cost greater than the published threshold amount (see Appendix I) - Use AIA contract A-101 (Appendix B1 and B2)
 - a. A formal set of plans and/or specifications shall be prepared for distribution to all bidders. The scope and detail of the project shall be adequately defined so competitive bids can be received. A date and time shall be set at which time bids will be received.
 - b. The agency will require all bidders to include a bid security in the amount of 5% of the bid amount and agree to furnish bonds for performance and labor and material payment in the event they are awarded a contract for the work.
 - c. Bidding opportunities for construction contracts will be advertised in a statewide and a local publication once a week for three (3) consecutive weeks or for twenty-one consecutive calendar days on a website designated by SBD that is accessible to the public, or both.
 - d. Sealed bids shall be submitted to the agency not later than a specified date and time. Bids will be publicly opened and read aloud.
 - e. A formal agreement between the agency and the selected contractor shall be executed.
2. Minor Capital Construction Projects: Total project cost between \$50,000 and current threshold (see appendix I and Construction Proposal and Agreement and General Conditions Appendix C1 and C2). Follow the Major Capital Construction project bidding process.
3. Total project cost less than \$50,000 - Open Solicitation Process (See Appendix D)
 - a. Competitive bidding not required however, strongly recommend obtaining three or more bids for the project solicited from responsible bidders. Original quotations may be in writing or verbal. Any verbal quotations must be followed up with a written or faxed confirmation for project files.
 - b. The successful bidder at the letting shall enter into a contract with the department or agency and shall furnish a bond for the faithful performance of the contract. A performance bond shall not be required for any project which has a total cost of one hundred thousand dollars or less unless the department or agency includes a bond requirement in the specifications for the project.
 - c. A fixed bid receipt date or public opening is not required.

- d. A formal contract shall be executed for the project. The contract may be an agency form contract or letter of agreement.
- e. All quotes or refusals to quote shall be documented by the agency for reference.

D. Special Situations

All Bids Exceed Project Budget – In the event all bids exceed the fixed project budget, the agency may choose to proceed with one of the following procedures. Any resulting revisions to the project scope or budget must remain consistent with the approved program statement and legislative intent.

1. The agency may reject all bids, adjust the project scope and/or budget and repeat the public bidding process.
2. If rebidding is not in the State's best interest, the agency may negotiate with the lowest responsible bidder in the following manner.
 - a. Award the project to the lowest responsible bidder contingent upon the mutual ability of the State and the bidder to negotiate acceptable cost reductions to bring the project within the fixed budget.
 - b. With the consultants and low bidder, identify methods to adjust the project scope, materials, or labor to reduce the overall cost of the project. The agency reserves the right to accept or reject any proposed changes and accompanying costs.
 - c. If acceptable cost reductions can be achieved, the agency may execute a formal contract with the contractor. The contract should be in the amount of the original bid with a change order to include the negotiated cost reductions executed simultaneously with the contract.
 - d. If the agency and the bidder cannot reach a mutually acceptable agreement, the agency may terminate negotiations and rebid the project.

E. Ethics and Conduct

1. Conflict of Interest - No person shall participate in, or assume responsibility in, the implementation and execution of the procedures including the evaluation of proposals and selection of contractors when participation constitutes a conflict of interest as defined by law, regulation, or executive order.
2. Access to Information - A state agency or state employee may not furnish any technical information, solicit proposals, or take any action that gives an unfair direct or indirect advantage to a potential bidder. If feasible, bidder requests for technical information or clarification should be answered. If the response may affect the bid received, the information must be supplied to or able to be accessed by all potential bidders.

F. Technical Specifications and Scope of Work

The agency must ensure technical plans and specifications are:

1. Accurate and adequately define the scope of work and project requirements
2. Quantified and structured to ensure quality and be cost effective.
3. Clearly stated to ensure equal competition among bidders.
4. Fair and impartial toward bidders
5. Structured to ensure free and open competition to the maximum extent possible.

G. Contractor Selection and Project Award

1. The evaluation of competitive bids and proposals shall be assessed as follows:
 - a. Responsibility. The agency shall first make a determination as to whether the bidder is responsible. If it is determined a bidder is not responsible, the bid must be rejected. Factors for determining responsibility include:
 - i. Past performance based on final reports from previous projects
 - ii. Character, integrity, reputation, judgment, experience and efficiency of the bidder
 - iii. Quality of workmanship and level of performance on previous contracts
 - iv. Ability, capacity and skill of the bidder to perform the work required
 - v. Past/present level of compliance with laws relating to the contract
 - vi. Performance in accordance with commonly accepted standards of usability and user requirements
 - b. Bid Price and time specified to complete the project based on:
 - i. Realism and reasonableness of the bid. Unrealistic (extremely low) and unreasonable (extremely high) cost bids may be rejected
 - ii. Lowest bid price
 - iii. Shortest realistic and reasonable time specified to complete the project
 - c. The best bid, meeting all above criteria, will be reviewed by the design consultant who will certify the bid covers all design components
2. The agency shall ensure compliance with Nebraska statutes providing preference for resident bidders, fair labor standards, equal opportunity, and a drug free workplace policy prior to entering into a contract for any state work

H. Grievance Procedure

The following suggested process should be used if an individual or firm wishes to contest the agency's selected bidder or the selection process.

1. Grievances/protests are to be expressed in writing to the Administrator of the procuring agency. The letter should state the project and specific issues that are to be addressed.
2. Within ten (10) business days of the posting of the award or intent to award, grievances/protests are to be expressed in writing and mailed to the Agency Administrator. The vendor will address each issue individually, in writing, to the Administrator. The letter should state the name of the project and specific issues that are to be addressed and should provide a point of contact and address to which a response can be sent.
3. The Administrator will review and evaluate the issues of the grievance and provide written response to the bidder within ten (10) business days of receipt of the grievance/protest specifying findings related to the grievance and actions, if any, to be initiated by the agency to resolve the grievance.
4. If the response has not satisfied the grievance of the vendor, the vendor may appeal by mailing a letter to the Agency director stating the name of the project, the specific issues to be addressed, and request a meeting with the Agency Director. This must be received by the Director's office within ten (10) business days of the date of the response of the Agency Administrator.
5. A meeting will be scheduled with the vendor and the Agency Director for the vendor to present the issues to be considered.

6. A written response of the final decision of the Agency Director will be sent to the vendor, generally within ten (10) business days unless additional time is necessary to fully examine the issues presented.
7. This protest policy does not create a contested case under Neb. Rev. § Stat 84-901(3)

I. Construction Contract Review and Approval

1. The agency shall submit the following to SBD for review
 - a. Copy of proposed construction contract signed by General Contractor (unsigned by agency)
 - b. Copy of bid tab
 - c. Certificate of Insurance and bond documents
 - d. Approval of the construction contract by the agency's legal counsel
 - e. Consultant's recommendation of award of bid
 - f. Revised budget
 - g. Revised timeline
2. SBD will return the report to the agency with notice on how to proceed. Copies will be submitted to the Budget Office and Legislative Fiscal Office.

CHAPTER 7 - CONSTRUCTION PHASE

A. Introduction

This phase of the project begins after the Owner/Contractor Agreement has been signed by both parties.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (SBD functions and responsibilities, facilities planning, construction, and administration)
2. *Neb. Rev. Stat. § 81-1108.42* (SBD certificate of final payment)

C. Preconstruction Phase

1. During this phase, the following documents should be submitted by the contractor to the agency for approval:
 - a. Performance Bond and Labor and Material Payment Bond
 - b. Certificate of insurance
 - c. Schedule of values
 - d. Construction schedule
 - e. Monthly time-cost schedule
2. The agency should provide updates to SBD if the contractor's time-cost schedule varies significantly from the schedule submitted to SBD with the Construction Contract Submittal.
3. A preconstruction conference should be conducted between the agency representative, consultant, and contractor to discuss the project and responsibilities such as administration, inspection, observation, superintendence, and supervision. SBD should be notified of the time and place for the preconstruction conference.

D. Construction Phase

1. During this phase, the following documents should be submitted by the contractor and the consultant to the agency:
 - a. Shop drawings and samples
 - i. Reviewed and approved by contractor
 - ii. Reviewed and approved by consultant
 - iii. Reviewed by agency
 - b. Schedules
 - c. Tests and reports
 - d. Consultant's request for payments
 - e. Periodic observations and progress reports by professional consultant and agency representative.
 - f. Contractor application and certificate of payment (AIA Form G704-Appendix F)
 - g. Change Orders (Appendix E)

2. Quarterly Capital Construction Project Reporting by the agency to SBD
 - a. Reports are required for all Major Capital Construction projects and will be submitted in, October, January, April and July for quarters ending in September, December, March, and June respectively.
 - b. Report instructions and table – See Appendix K
3. Periodic Contractor Payment requests submitted by Agency
 - a. All project payments will be processed using the E1 financial system of record
 - b. E1 Business Unit setup and payment coding shall be structured to allow aggregation by capital construction budget category.

E. Substantial Completion

Certificate of substantial completion (AIA Form G704 - Appendix G) including:

1. Notification by contractor
2. Inspection and report by agency project manager.
3. Demonstration of equipment and mechanical systems
4. Completion of contractual training, monitoring, maintenance schedules, etc

F. Final Completion – Submittal of Final Contractor Payment(s) to SBD

1. Submittal by the Contractor to the Agency shall include:
 - a. Final payment request
 - b. Submittal of the consent of the surety to final payment
2. Submittal by the Consultant to the Agency shall include:
 - a. Certification of the Contractor's final payment request
 - b. Certification by Professional Engineer or Architect that all work completed substantially conforms to the contract documents and the contract has been satisfactorily performed except for the making of final payment.
3. Submittal of final contractor payment to SBD shall include:
 - a. The Contractor's final payment request
 - b. Certification (in accordance with item F.2.b above) from the Consultant
 - c. Approval for payment by the Agency
4. Processing of the final contractor payment by SBD
 - a. Review Agency final contractor payment submittal for completeness
 - b. Submit final payment submittal to the DAS Director (as applicable) and State Accounting for payment.

CHAPTER 8 - POST CONSTRUCTION PHASE

A. Introduction

Project evaluation and submission of contract guarantees and warranties are required upon project completion and after final payments.

B. Statutory Authority

1. *Neb. Rev. Stat. § 81-1108.15* (SBD, SBD functions and responsibilities, facilities planning, construction, and administration)
2. *Neb. Rev. Stat. § 81-1108.43* (Capital construction prohibitive act)

C. Final Report by Agency

Submit final report to SBD within 30 days after final payment for all Major Capital Construction Projects. (SBD may require a final report for Minor Capital Construction Projects) The report will include but is not limited to:

1. A comparison of final costs and completed project with the program statement
2. The final Quarterly Project Report
3. Agency Evaluation of consultant
 - a. Conformance with professional service agreement
 - b. Conformance with budget requirements
 - c. Conformance with timeline
 - d. Project management
 - e. Planning and design
4. Agency Evaluation of contractor
 - a. Conformance to construction agreement
 - b. Quality of workmanship
 - c. Conformance with timeline
 - d. Project management
 - e. General comments

D. Final Review by State Building Division

SBD will review and submit report to Governor's office and Legislative Fiscal Analyst.

E. Guarantee and Warranty Phase

1. Eleven-months following substantial completion, an inspection of the facility is conducted with the professional consultant. Any noted deficiencies are sent to the contractor for correction.
2. Guarantee and warranty procedures
 - a. Agency's written report of deficiency to contractor
 - b. Agency's written acknowledgment of corrective work to contractor
 - c. Coordinate with SBD as necessary

3. Evaluation of the facility (recommend forwarding to SBD)
 - a. Success of design
 - b. Energy efficiency
 - c. Operational experience
 - d. Environmental considerations
 - e. Evaluation of artwork

F. Project Close-out

1. One-year post-completion inspection
 - a. Written notice to contractor of any deficiencies not corrected
 - b. Written notice to professional consultant of any deficiencies not corrected
2. Extended warranties
 - a. Written notice of deficiency direct to manufacturer/supplier or sub-contractor
 - b. Written acknowledgment of correction action
3. Operations and maintenance programs
 - a. Establish a preventive maintenance program
 - b. Operate in accordance with manufacturer's recommendations

Procedural Manual for Capital Construction Projects

Appendices

APPENDIX A	State of Nebraska Owner - Consultant Agreement for Major Capital Construction projects over the threshold (see appendix I)
APPENDIX B1	State of Nebraska Owner - Contractor Agreement for Major Capital Construction Projects
APPENDIX B2	General Conditions State of Nebraska Owner – Contractor Agreement to accompany Appendix B1
APPENDIX C1	State of Nebraska Owner – Contractor Agreement for projects between \$50,000 and threshold amount (see appendix I)
APPENDIX C2	General Conditions State of Nebraska Owner – Contractor Agreement to accompany Appendix C1
APPENDIX D	State of Nebraska Owner – Contractor Agreement less than \$50,000
APPENDIX E	State of Nebraska Construction Contract Change Order
APPENDIX F	Application and Certificate for Payment (AIA form G702)
APPENDIX G	Certificate of Substantial Completion (AIA form G704)
APPENDIX H	Nebraska Arts Council 1% for Art Regulations
APPENDIX I	Capital Construction Thresholds - Inflationary Adjustments
APPENDIX J	Current Open-Ended Agreement Consultants
APPENDIX K	DAS Capital Construction Quarterly Progress Report Instructions
APPENDIX L	Guidelines for Tree Removal/Replacement on State Lands
APPENDIX M	Energy Code Compliance 2018 IECC / ASHRAE 90.1-2016
APPENDIX N	Budget Preparation Instructions for Capital Construction Projects
APPENDIX O	Site and Structure Naming Procedures
APPENDIX P	Capital Construction Emergency Contingency Fund