

State Purchasing Bureau Policy

NOTICE

This guidance document is advisory in nature but is binding on the Nebraska Department of Administrative Services until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department of Administrative Services and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document. See Neb. Rev. Stat. § 84-901.03

Policy No: 23-03
Application: Services
Subject: Contract Responsibility & Negotiations
Effective Date: 11-20-2023

Unless otherwise authorized by the State Purchasing Bureau ("SPB"), purchasing state agencies are responsible for managing their agency-specific contracts that are awarded after the Effective Date of this policy. Contract management responsibilities begin after an Intent to Award has been issued. The purchasing state agency is responsible for negotiating the terms and conditions to the contract, executing the contract, and managing the contract post-execution, including all amendments, addendums, etc. The purchasing state agency will need to generate the O4 Contract in E1 after SPB has generated the Z1 Services Quote. SPB will continue to maintain responsibility for statewide and multi-agency contracts, unless SPB and the purchasing state agency agree in writing to an alternative arrangement.

Purchasing state agencies should craft their solicitations' terms and conditions to minimize necessary negotiations with the vendor after the Intent to Award has been published. A purchasing state agency may label any term or condition as "nonnegotiable." However, purchasing state agencies should exercise caution in labeling any term as "nonnegotiable" as any term that is labeled as "nonnegotiable" in the solicitation may not be negotiated with the awarded vendor. Outside of this limitation, the purchasing state agency may negotiate any term or condition in the solicitation to which the vendor took exception.

In determining whether the purchasing state agency should accept revisions to the terms and conditions, the agency should consider:

1. The overall impact to the procurement process and fairness to other bidders;
2. The impact on cost;
3. The feasibility of the proposed terms on the operations of the agency;
4. The feasibility of the proposed terms on the contract's deliverables and the vendor's ability to perform; and
5. The reasonableness of the proposed revisions.

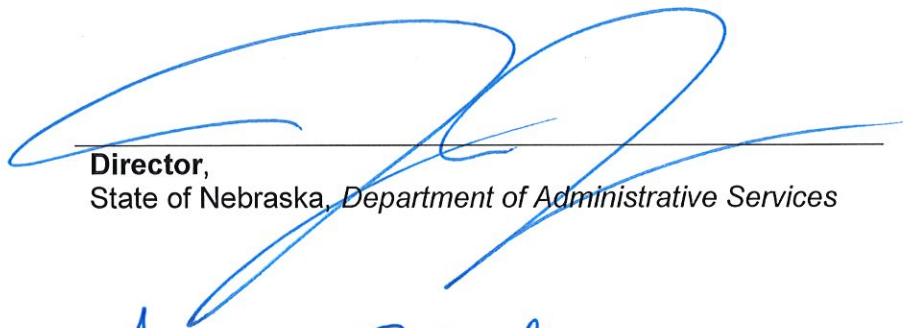
This list is not exclusive. The purchasing state agency should consider all factors that it deems relevant in negotiating the final agreement.

This policy shall not be construed to prohibit a purchasing state agency from revising a solicitation for technical errors (e.g., clarity, grammar, misspellings, etc.), regardless of whether the technical errors occur in a nonnegotiable term.

In the event of a conflict between this policy and the procurement manual or applicable statute, the manual or statute shall control.

Terms in this policy have the same meaning that they have in the Procurement Manual and other attached policies.

The foregoing policy is duly signed and executed on this 20th day of November, 2023.



Director,
State of Nebraska, *Department of Administrative Services*

20 NOV 23
DATE

Amara Block
Material Administrator,
State of Nebraska, *Department of Administrative Services*

11/20/23
DATE

