

## 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:** 23-05  
**Application:** Goods & Services  
**Subject:** Contract Duration, Renewals and Extensions  
**Effective Date:** 11-20-2023

Nebraska law prohibits contracts for an unlimited duration. See Neb. Rev. Stat. § 73-506 (2). Pursuant to this policy, a contract's duration, excluding any extension, shall meet the following requirements, unless otherwise authorized in writing by the Director of Administrative Services or designee:

- 1) Information Technology Contracts
  - a. The total life of the contract, including renewals, shall not exceed a total of fifteen (15) years; and
  - b. The initial term shall not exceed five (5) years.
- 2) All Other Contracts
  - a. The total life of the contract, including renewals, shall not exceed a total of eight (8) years; and
  - b. The initial term shall not exceed four (4) years.

The purchasing agency may select any contract duration within the duration limitations provided above. Factors that the agency should consider in determining contract length include, but are not limited to:

- 1) Current and future needs and restrictions of the agency;
- 2) Total cost to the agency to establish a relationship with the contractor (e.g., implementation costs);
- 3) Total investment by the agency over the course of the contract;
- 4) Impact of the proposed contract length on receiving competitive bids;
- 5) Historical and future price fluctuations;
- 6) Risk to the state agency by contracting with this vendor or another vendor;
- 7) The availability of other vendors;
- 8) The lead time to complete another competitive bid; and
- 9) Whether the contract includes a termination for convenience clause.

Contract extensions are distinct from renewal periods under Nebraska law. Although both contract extensions and renewal periods increase the duration of a contract, "renewal periods" must be specifically named in the original solicitation or contract, whereas "extensions" are available to all State of Nebraska contracts. Nebraska procurement law specifies that contracts may only be extended once, and the duration of that extension may not exceed fifty percent (50%) of the original contract term. Neb. Rev. Stat. §§ 81-1118 & 73-506. This limitation does not apply to renewal periods, which may be of any prudent duration so long as they are specifically named in the original contract.

State Purchasing Bureau's ("SPB") contract renewal and extension policy is as follows:

- 1) Although it is best practice to renew or extend a contract before the termination date of that contract, to ensure continuity of operations, expired contracts may be renewed or extended if the renewal or extension:
  - a. Is executed in a writing signed by all parties to the contract;
  - b. Only increases the duration of the contract as if it were being renewed or extended from the date of expiration<sup>1</sup>; and
  - c. Is otherwise in accordance with law and the terms and conditions of the contract.
- 2) Contracts cannot be for an unspecified or unlimited duration.
- 3) Autorenewal clauses are discouraged. If a contract contains an autorenewal clause:
  - a. The autorenewal clause must be for a predetermined period of a lawful duration; and
  - b. The State must have the ability to decline the renewal period with written notice to the contractor.
- 4) Renewals and extensions may be exercised at any time so long as the contract's total duration, including renewals and extensions, is no longer than it would have been if the renewals and extensions had been executed successively.

This policy only applies to new contracts originating with the State of Nebraska after the Effective Date of this policy and not to contracts originating from external entities (e.g., other states, GSA, etc.). This policy supersedes and replaces all other SPB policies and memoranda on this topic.

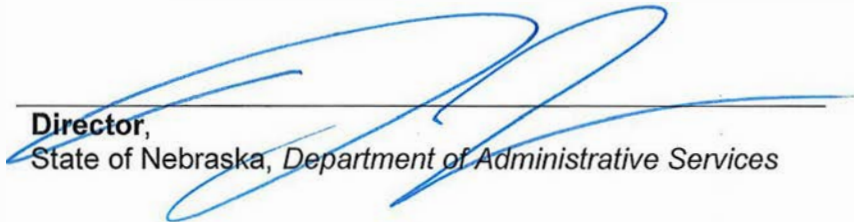
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<sup>1</sup> If an renewal or extension is executed after a contract is expired, the duration of the renewal or extension should be calculated from the expiration date of the contract, and not the date of the extension or renewal was executed. For example, if a contract's initial term was from May 1, 2023, to April 30, 2024, and a one-year renewal for the contract was executed on August 15, 2024, that renewal period would end on April 30, 2025.

The foregoing policy is duly signed and executed on this 20<sup>th</sup> 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

