

State of Nebraska Procurement Manual



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.

This Manual is established under Neb. Rev. Stat. § 73-807 of the State Procurement Act to govern the procurement of personal property and services. It replaces all previously published procurement manuals and is effective July 19, 2024.

I. EXISTING SOURCES

- A. Before contracting for personal property or services, agencies must determine if the personal property or services are available on an existing contract or by another state agency.
- B. The following are types of existing personal property and services:
 - 1. Existing Contracts. Agencies may not purchase personal property or services when a contract for those same personal property or services has been entered into by the State of Nebraska through Department of Administrative Services - Materiel Division, State Purchasing Bureau, unless they receive written approval from the Materiel Administrator. Neb. Rev. Stat. § 73-812(8).
 - 2. Print & Copy. All printing requests must be processed through the Department of Administrative Services - Materiel Division, Printing Services.
 - 3. Information Technology ("IT") and Communication-Related.
 - a. The Office of the Chief Information Officer ("OCIO") must approve the acquisition of any information management item prior to any purchase. This includes computer hardware, software, and maintenance and professional services for any IT project.
 - b. The Nebraska Information Technology Commission policy permits the OCIO to preapprove items for purchase. A copy of this policy, the criteria used in conducting reviews of information management purchases and the list of preapproved items are available at <http://nitc.ne.gov/standards/1-204.html>.

II. COMPETITIVE BIDDING

- A. Contracts subject to the State Procurement Act (Neb. Rev. Stat. § 73-801 et seq.) with a total cost greater than fifty-thousand dollars (\$50,000) must be competitively bid unless an exception applies.
 - 1. Typically, services are competitively bid using a Request for a Proposal (RFP), and personal property is competitively bid using an Invitation to Bid (ITB).
 - 2. RFPs and ITBs are documents that are used to solicit responses from potential vendors and that provide for the negotiation of some terms before the contract award.
 - 3. Competitive Bidding Process Management.
 - a. For services solicitations, the competitive bidding process may be managed by the agency or, upon agreement between SPB and the agency, by SPB. If SPB determines there may be a statewide need for the requested services, SPB will manage the competitive bidding process and the resulting contract will be available for statewide use.

- b. For personal property solicitations the competitive bidding process must be managed by SPB unless the Materiel Administrator grants direct purchase authority.
4. If the agency manages the competitive bidding process, the bid documents must be prereviewed by SPB before the release of the solicitation.
5. SPB must review any changes in the proposed contract that differ from the posted bid documents before the agency signs the proposed contract.

B. Solicitations

1. Scope of Work
 - a. The solicitation should describe the personal property or services that are sought by the agency.
 - b. The description of the personal property or services should be broad enough to attract as many bidders as possible but narrow enough to procure the necessary personal property or services.
 - c. Responsibility for defining the personal property or services required lies with the agency in all procurements.
2. Mandatory Contract Requirements
 - a. Solicitations must designate mandatory requirements.
 - b. Mandatory requirements are the requirements that will be used to evaluate each bidder's solicitation response.
 - c. The use of the words "must," "shall," or "will" indicate a mandatory requirement.
3. Terms and Conditions
 - a. Agencies are encouraged to use the applicable SPB solicitation template when feasible.
 - b. Agency contracts must incorporate all nonnegotiable provisions contained in the applicable SPB solicitation template, unless otherwise approved by SPB.
 - c. Any provision that an agency labels as "nonnegotiable" may not be substantively altered in the final contract, unless approved by SPB.
4. Evaluation Process
 - a. Agencies must have a fair and impartial evaluation process that considers cost realism, cost reasonableness, and the responsibility of each bidder. Neb. Rev. Stat §§ 73-808, 73-810.
 - b. For Services Solicitations:
 - i. The agency must establish criteria to evaluate eligible solicitation responses and assign points for those criteria. These criteria must include corporate, technical, and cost criteria. In addition to these criteria, the agency may determine that vendor demonstrations are required.
 - ii. Unless otherwise approved by the Director of Administrative Services or designee, the points for corporate, technical, and cost criteria must equal 100 points when added together.

- iii. The points for each criterion must be within the following ranges:
 - a) Corporate Criteria
 - i) Corporate criteria ask about the bidder's business operations, qualifications, and competencies (e.g., prior experience, corporate composition, financial stability, contract performance, etc.).
 - ii) A bidder's response to corporate criteria ("Corporate Overview") must be worth at least 25 percent of the total points.
 - b) Technical Criteria
 - i) Technical criteria ask the bidder to describe their method for executing the requirements listed in the solicitation.
 - ii) The bidder's response to technical criteria ("Technical Response") must be worth at least 25 percent of the total points.
 - c) Cost Criteria
 - i) Cost criteria ask the bidder to propose a price at which they can provide the personal property or perform the services listed in the solicitation.
 - ii) The bidder's response to cost criteria ("Cost Sheet") must be worth at least 10 percent of the total points but no more than 20 percent of the total points.
- c. For Personal Property Solicitations:
 - i. The agency must establish criteria to evaluate eligible solicitation responses, and those criteria should consider the factors identified in Neb. Rev. Stat. § 73-808.
 - a) The agency may evaluate solicitation responses based on cost alone so long as the agency still evaluates cost realism, cost reasonableness, and the responsibility of each bidder, Neb. Rev. Stat §§ 73-808, 73-810; or
 - b) The agency may assign points for the designated criteria.
 - i) The criteria must include corporate, technical, and cost criteria as those terms are defined above. In addition to these criteria, the agency may determine that vendor demonstrations are required.
 - ii) Unless otherwise approved by the Director of Administrative Services or designee, the points for all criteria must equal 100 points when added together.
 - d. When an agency determines vendor demonstrations are required, additional points are allocated to vendor demonstrations. These additional points must not exceed 20 percent of the total points allocated to corporate, technical, and cost criteria.
 - e. Only requirements specified in the solicitation may be evaluated.
 - f. The agency must designate the individual or individuals who will evaluate the solicitation responses. The agency may assign evaluation criteria to the designated evaluators as the agency sees fit.

- g. The agency may direct evaluators to score solicitation responses by individual scoring or by consensus scoring, but not by both for the same solicitation.
 - i. Individual scoring is any solicitation response evaluation method in which evaluators individually score vendor responses without discussing their scoring decisions with one another.
 - ii. Consensus scoring is any solicitation response evaluation method in which evaluators discuss vendor responses with one another to agree on a single group score.
 - h. The agency must identify which scoring method it will use before the release of the solicitation.
5. Public Notice
- a. The solicitation must be posted for at least fifteen (15) calendar days, unless the Materiel Administrator approves a posting for less time upon the agency's showing of a unique requirement. Neb. Rev. Stat. § 73-809.
 - b. The solicitation must be filed with the Materiel Division "for dissemination or website access to interested vendors," but it may also be published on any public forum. Neb. Rev. Stat. § 73-807 (5).
 - c. The solicitation must state the forum from which interested vendors can find updates about the solicitation (e.g., the procuring agency's website, SPB's website, a specific newspaper, etc.).
 - d. The public notice should minimally include:
 - i. A brief description of the personal property or services needed;
 - ii. Where the solicitation may be viewed;
 - iii. A point of contact with the State; and
 - iv. The deadline for response.
6. Secured Submission
- a. The solicitation responses must be submitted by a secured method (e.g., mailed or hand-delivered sealed envelopes, a secured electronic platform, etc.) and must not be opened until the bid opening as specified in the solicitation.
 - b. Regardless of submission method, the procuring agency must document the date and time of the submitted solicitation responses' receipt.
7. Bid Opening
- a. The procuring agency must read aloud the names of the contractors that submitted responses to the posted solicitation at a bid opening.
 - b. Bid openings must be at a date and time fixed within the solicitation and must be available for all bidders to attend. Neb. Rev. Stat. § 73-101.
 - c. Bid openings may be in-person or virtual.
8. Public Award
- a. The contract for personal property or services described in the solicitation will be awarded to the highest scoring solicitation response(s).
 - b. A notice describing which solicitation response(s) have been awarded the contract (i.e., an "Intent to Award") will be published on DAS's website.
 - c. The evaluated solicitation responses must be available to the public after the Intent to Award has been published.

d. The solicitation responses may be withheld from public disclosure until an Intent to Award has been issued. Neb. Rev. Stat § 73-101.

9. Contract Negotiation & Execution

a. Contract negotiations may commence after an Intent to Award has been published on DAS's website, even if the protest period has not yet passed.

b. A contract may not be executed until after the protest period, unless otherwise approved by the Director of Administrative Services or designee.

10. Protests & Debriefs

a. Bid protests must be filed in accordance with the SPB Policy 23-07, Protests.

b. Agencies may debrief disappointed vendors on their solicitation responses, but that debrief may only occur after the protest period has passed.

C. Ethical Requirements

1. Contractors involved in the development or execution of a solicitation may not bid on that solicitation.

2. Evaluators may not have a conflict of interest, as determined by the Materiel Administrator.

3. Evaluators must sign an "Evaluator Agreement," provided or approved by SPB.

D. Optional Pre-Solicitation Processes

1. An agency may draft and post a Request for Information ("RFI").

a. An RFI is used to gather information, is not considered a competitive bid, and is not subject to the requirements of this manual.

b. An RFI may not result in a contract or procurement, unless SPB approves, in advance, an RFI being a mandatory requirement of an RFP.

2. A Request for Qualifications ("RFQ") is a formal process used to screen vendors who may submit a solicitation response based on their qualifications to provide the required services. An agency may use an RFQ in addition to or instead of an RFP with permission from the Director of Administrative Services or his or her designee.

III. Alternative Process

If the procuring agency wishes to deviate from the requirements set forth in this Procurement Manual, it must receive written permission to do so from the Director of Administrative Services or designee according to SPB's Alternative Process Policy.

IV. Exceptions

A. An agency seeking an exception to the competitive bid process must follow SPB's Exception Policy. Except for emergencies, all exception requests must be submitted to and approved by SPB before an agency procures the personal property or service.

B. Exceptions to competitive bidding include:

1. Sole Source (Neb. Rev. Stat. §§ 73-803(10) & 73-813(1)(a))

2. Emergency (Neb. Rev. Stat. §§ 73-803(6) & 73-813(1)(a))

3. Price is established by the General Services Administration (GSA) (Neb. Rev. Stat. § 73-813(1)(a))
4. Otherwise competitively bid contracts (e.g., NASPO Contracts) (Neb. Rev. Stat. § 73-813(1)(a))
5. Other circumstances in accordance with law (Neb. Rev. Stat. § 73-813(1)(b))
6. Those listed in Neb. Rev. Stat. § 73-813(2)

V. Contracts Exempt from this Manual

Common statutory exemptions from the State Procurement Act (Neb. Rev. Stat. § 73-801 et seq.) are found in § 73-813(2) & § 73-803(11).

[SIGNATURE PAGE TO FOLLOW.]

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The foregoing policy is duly signed and executed on this 23 day of July, 2024.



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

July 23, 24

DATE



Materiel Administrator,
State of Nebraska, *Department of Administrative Services*

7/23/2024

DATE