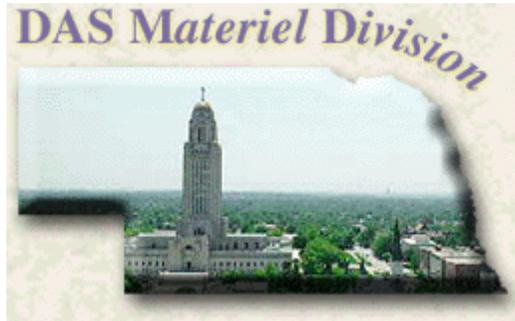


State of Nebraska

Administrative Services

Materiel Division – State Purchasing Bureau



Commodities/Goods Vendor Manual



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DEFINITIONS/ABBREVIATIONS

ADDENDUM: Something to be added or deleted to the Invitation to Bid.

AGENCY: All officers of the State, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations.

AGENT: A person authorized by a superior or organization to act on their behalf.

AMEND: To alter or change by adding, subtracting or substituting. A contract can be amended only by the parties participating in the contract. If the contract is written, it can be amended only 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.

ARO: After Receipt of Order

AWARD: All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the Invitation to Bid. 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.

BID BOND: A bond given by a surety on behalf of the bidder to ensure that the bidder will enter into the contract and is retained by the State from the date of the bid opening to the date of contract signing.

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.

COMMODITIES: Any equipment, material, or supply; anything movable or tangible that is provided or sold.

COMMODITIES DESCRIPTION: Detailed descriptions of the items to be purchased. These should include whatever information is necessary to obtain the desired quality, type, color, size, shape or special characteristic necessary to perform the work intended or produce the desired results.

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: See “Proprietary Information”.

CONTRACT FOR GOODS: An agreement between two or more persons to provide an end item of supply, goods, equipment, or material.

CONTRACTOR: Any person or entity that supplies goods and/or services.

COOPERATIVE PURCHASING: The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits.

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.

EMERGENCY: A situation which endangers lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services.

EVALUATION OF BID: The process of examining a bid after opening to determine the bidder’s responsibility and responsiveness to requirements and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

EXTENSION: A provision, or exercise of a provision, of a contract that allows a continuance of the contract (at the option of the State of Nebraska) for an additional time according to contract conditions. Not to be confused with “Renewals”.

F.O.B. DESTINATION: 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.

F.O.B. POINT OF ORIGIN: The delivery charges are not included in the quoted price and are the responsibility of the agency. Agency is responsible for all claims associated with damages during delivery of product.

INVITATION TO BID (ITB): The written solicitation document used by the State Purchasing Bureau for seeking competition and obtaining bid responses.

LATE BID: A bid received at the place specified in the solicitation after the date and time designated for all bids to be received.

MANDATORY: Required, compulsory or obligatory.

MUST: Required, compulsory or obligatory.

NIGP: National Institute of Governmental Purchasing.

PERFORMANCE BOND: A bond given by a surety on behalf of the contractor to ensure the timely performance of a contract.

PRE-BID CONFERENCE: A meeting scheduled for the purpose of providing clarification regarding an Invitation to Bid and related expectations.

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 an Invitation to Bid, Request for Proposal brought by a prospective bidder, a contractor, or other interested party to AS Materiel Division or another designated agency with the intention of achieving a remedial result.

PUBLIC BID OPENING: The process of opening bids, conducted at the time and place specified in the Invitation to Bid, and in the presence of anyone who wishes to attend.

RENEWALS: Reinstitution of a contract for an additional term.

REPRESENTATIVE: Includes an agent, an officer of a corporation or association, or any other person legally empowered to act for another.

RESPONSIBLE VENDOR: A vendor who has the capability in all respects to perform fully all requirements, the integrity and reliability to assure good faith performance.

RESPONSIVE BIDDER: A vendor who has submitted a bid which conforms in all respects to the solicitation document.

SHALL: Denotes the imperative, required, compulsory or obligatory.

SOLE SOURCE - COMMODITY: An item available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

SOLICITATION DOCUMENT: An Invitation to Bid (ITB)

TERM CONTRACT: A contract intended to cover requirements for a commodity for a specified period of time based on estimated quantities.

TERMINATION: Occurs when either party pursuant to a power created by agreement or law puts an end to the contract. On "termination", 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 goods and which no other person has the legal right to use.

VENDOR: Actual or potential supplier(s).

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 you have specific questions regarding procurement or this manual please call Administrative Services (AS) Materiel, State Purchasing Bureau herein after 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/>.

A. STATE PURCHASING BUREAU PURPOSE

The purpose of the State Purchasing Bureau created by Neb. Rev. Stat. § 81-1118.06 is:

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.

Nebraska Revised State Statute Section 81-161.05 prohibits Materiel Division employees from accepting gifts or anything of value from vendors. This is a reminder to vendors regarding this provision. We appreciate your compliance with this policy and ask that you be mindful of the need for continued compliance.

II. APPLICATION PROCEDURES FOR INCLUSION ON THE STATE PURCHASING BUREAU BIDDERS LIST

A. INCLUSION ON BIDDERS LIST

Any firm or individual wishing to bid on a State of Nebraska Invitation to Bid does not need to be registered as a vendor with the AS Materiel Division. Bids may be obtained by visiting the website below; however, any firm or individual may request placement on the State Purchasing Bureau's bidders list by submitting an "Application for Inclusion on Bid List" form. Application forms may be obtained from the State Purchasing Bureau website or the State Purchasing Bureau at the address listed below.

A vendor who has been placed on a bid list may receive periodic notices for "Invitations to Bid" on the items which they have specified on their applications. The State Purchasing Bureau will use the National Institute of Government Purchasing (NIGP) Commodity Code as the method of registering vendors under different categories. If fifty or more vendors are registered under one NIGP code, the State Purchasing Bureau may use a random selection method to determine who receives the Invitations to Bid announcement letter. The State Purchasing Bureau will not be responsible or ensure that all vendors receive Invitations to Bid announcement letters on all commodities/services for which they have registered.

Nebraska State Office Building
State Purchasing Bureau
301 Centennial Mall South, Mall Level
P. O. Box 94847
Lincoln, Nebraska 68509
Telephone: 402-471-2401
Website: <http://www.das.state.ne.us/materiel/purchasing/>

Any vendor to be awarded a contract must be registered with the Secretary of State.
<http://www.sos.state.ne.us/>

B. SUSPENSION 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 to satisfactorily remedy the situation may be cause for suspension from the bidders list and suspended 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.

III. PURCHASE AND CONTRACT PROCESS FOR COMMODITIES

State Purchasing Bureau Buyers are assigned specific commodities, generally grouped by their similarities. Agency requisitions greater than \$10,000 are assigned to the appropriate buyer upon receipt by the State Purchasing Bureau.

The State of Nebraska uses the following methods to procure commodities: Competitive Formal Sealed Bids, Competitive Informal Bids, and Direct Purchases. The State of Nebraska State Purchasing Bureau may also utilize Federal General Service Administration (GSA), Multi-State Cooperative Purchasing contracts and University of Nebraska contracts.

A. COMPETITIVE FORMAL SEALED BIDS

Price quotations are secured from vendors by means of an "Invitation to Bid" form. A minimum of fifteen (15) days shall elapse between the date and time formal sealed bids are advertised and the date and time of the bid opening unless an exception has been approved by the AS Materiel Division. Bids shall be opened publicly at the time and date specified in the Invitation to Bid. Award shall be made to the lowest responsible bidder who meets the specifications set forth in the Invitation to Bid. Competitive formal sealed bids are required on purchases in excess of \$24,999.99 with the exception of sole source or emergency purchases that require the pre-approval of the Governor or his designee prior to the purchase being made.

1. CONTRACT PROCUREMENT

The State Purchasing Bureau may enter into contract purchase agreements for certain items or groups of items when continuous procurement is anticipated. Competitive formal sealed bidding procedures will be utilized with award being made to the lowest responsible bidder that best meets the specifications set forth in the Invitation to Bid. The State of Nebraska, State Purchasing Bureau, may also utilize Federal GSA, Multi-State Cooperative Purchasing contracts and University of Nebraska contracts.

B. GSA

AS Materiel Division, State Purchasing Bureau may allow the purchase of items without competitive bidding when the price has been established by the federal General Services Administration when it is in the best interest of the State of Nebraska.

C. MULTI-STATE COOPERATIVE PURCHASING CONTRACTS

AS Materiel Division may allow the purchase of items by participation in a contract competitively bid by another state or group of states.

D. UNIVERSITY OF NEBRASKA CONTRACT

The AS Materiel Division shall make available copies of current purchase agreements and standard specifications to the University of Nebraska. The University of Nebraska may utilize such purchase agreements if it determines that it would be to its advantage to do so. The AS Materiel Division may utilize purchase agreements entered into by the University of Nebraska upon a finding by the Materiel Administrator that the use of such agreements would be in the best interest of the State.

E. COMPETITIVE INFORMAL BIDS

Price quotations may be secured and documented by mail, e-mail, facsimile or phone, whichever is most appropriate for the goods involved. Award shall be made to the lowest responsible bidder that meets the specifications set forth in the Invitation to Bid. Competitive Informal bids are used on purchases of \$10,000.00 to \$24,999.99.

F. SOLE SOURCE PURCHASES

An item available from only one source due to the unique nature of the requirement, its supplier, or market conditions. AS Materiel Division is responsible for the purchase of sole source commodities greater than \$10,000.

G. EMERGENCY PURCHASES

A situation which endangers lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services. All emergency purchases must be pre-approved by the Governor or Governor's designee prior to purchase being made.

H. DIRECT PURCHASES

Agency buyers have direct purchase authority up to \$9,999.99. Additional authorities may be granted through the AS Materiel Division.

I. BID OPENING

Formal bid openings shall be public on the date and time specified on the Invitation to Bid form. It is the bidder's responsibility to assure the bid is delivered at the designated date, time and place of the bid opening. Telephone or facsimile bids are not acceptable. A bid may not be altered after opening of the bids.

J. LATE BIDS

Bids received after the time and date of the bid opening will be considered late. Late bids shall be returned to the bidder unopened. The State is not responsible for bids that are late or lost due to mail service inadequacies, traffic or other similar reasons.

K. OWNERSHIP OF BIDS

Once bids are opened they become the property of the State of Nebraska and will not be returned.

IV. ADDITIONAL INFORMATION FOR COMMODITIES

A. BUY RECYCLED

Preference shall be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use. Such preference shall not be given when it would result in the purchase of products, materials, or supplies which are of inadequate quality or substantially higher cost.

B. PREPARATION FOR COMPETITIVE INFORMAL BIDS

The Invitation to Bid response shall be prepared in ink or typewritten to include an authorized signature, in ink, on the Invitation To Bid form. Failure to sign the Invitation To Bid form will result in the rejection of the bid response. Telephone, voice, e-mail and facsimile bids will not be accepted on bids in excess of \$24,999.99 or on bids for contracts. Competitive informal bids may be sealed in an envelope/box when submitted to the State Purchasing Bureau. Envelopes, boxes, tape, etc. will not be provided by the State Purchasing Bureau. Bids which do not comply with the stated bid specifications are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

C. PREPARATION FOR COMPETITIVE FORMAL BIDS

The Invitation to Bid response shall be prepared in ink or typewritten to include an authorized signature, in ink, on the Invitation To Bid form. Failure to sign the Invitation To Bid form will result in the rejection of the bid response. Telephone, voice, e-mail and facsimile bids will not be accepted. Bid responses must be sealed in an envelope/box when submitted to the State Purchasing Bureau. Envelopes, boxes, tape, etc. will not be provided by the State Purchasing Bureau. Bids which do not comply with the stated bid specifications are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

D. PRE-BID MEETING

In certain instances, a pre-bid meeting may be scheduled by the State Purchasing Bureau for the purpose of explaining specifications or other aspects of the Invitation to Bid. All interested vendors are eligible to attend, and in some cases attendance may be mandatory.

E. SPECIFICATIONS

Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The Materiel Division will be the sole judge of equivalency. The bidder may offer any brand which meets or exceeds the specification. When a specific product is required, the Invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

F. ALTERNATE/EQUIVALENT BIDS

Bidder may offer bids which are at variance with the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgment of the Materiel Division, the bid will result in goods equivalent to or better than those which would be supplied in the original bid specifications. Bids which do not comply with the stated bid specifications are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

G. PRICES

Prices quoted shall be net. Unless otherwise specified, the quoted price shall be a delivered price, F.O.B. destination named in the Invitation to Bid, with all transportation, environmental and delivery charges fully prepaid by the vendor. Unless otherwise specified, the quoted price shall be a firm price exclusive of escalation clauses. No additional charges shall be allowed for packing, packages, or partial delivery costs. When a mathematical error has been made in the extended total, the unit price will govern.

H. DISCOUNT PAYMENT TERMS

Prices quoted shall be inclusive of all trade discounts. Only cash discount terms of thirty days or longer shall be considered in determining the award. Cash discount periods shall be computed from the date of receipt of the properly executed invoice or the date of completion of delivery of all items in satisfactory condition, whichever is later.

I. LUMP SUM OR ALL OR NONE BIDS

The State reserves the right to purchase items from individual bids, item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and by which the bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

J. COLLUSIVE BIDDING

The bidder's signature on the Invitation to Bid 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. Evidence of collusion will be reported to the federal government.

K. TAXES

Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. The State of Nebraska is exempt from the payment of sales and use taxes under Neb. Rev. Stat. §77-2704.15(1) and such taxes must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

L. BID BOND

The State Purchasing Bureau may specify in the Invitation to Bid that a vendor's bid be accompanied by a bid bond executed by a surety company or certified check. The amount of bond required will be specified in the Invitation to Bid. The bid bond shall be provided as protection to the State of Nebraska against the withdrawal of a bid and in payment of costs incurred should the successful bidder fail to enter into contract. After the award is made, the bid bond shall be returned to those vendors who were unsuccessful. The bid bond of the successful vendor shall be returned after the award or upon receipt of a performance bond, if one is required.

M. CORRECTION OF BIDS

A written correction may be made to a bid by a vendor provided that the correction is made and received prior to the date and time of the bid opening. All corrections must be made in writing, must be sealed and must indicate that the correction takes precedence over the original bid.

N. SAMPLES

When requested, samples shall be furnished at the bidder's expense when requested. Each sample must be labeled clearly and identify the bidders name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities or equipment which would be delivered if the bidder were awarded the bid. The State of Nebraska reserves the right to request samples even when the Invitation to Bid does not request samples. Samples not destroyed in testing will be returned at bidders' expense, if requested, or will be donated to a public institution.

O. AWARD

All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of Neb. Rev. Stat. §81-161. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid 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.

P. BID TABULATION INFORMATION

Bid tabulations are posted to the State Purchasing website, <http://www.das.state.ne.us/materiel/purchasing/>.

Q. REJECTION OF BIDS

Any or all bids may be rejected wholly or in part by the AS Materiel Division, State Purchasing Bureau. The AS Materiel Division, State Purchasing Bureau, may reject the bid of any bidder who has failed to perform a previous contract with the State. Bids completed in pencil will be rejected. Bids may be rejected for any reason when it is in the best interest of the State of Nebraska. In any case where competitive bids are required all bids are rejected, and the proposed purchase is not abandoned, new bids shall be solicited. See Neb. Rev. Stat. §81-161.02.

R. DELIVERIES

All deliveries shall be made to the point or points specified in the original solicitation.

1. F.O.B. Destination - the delivery charges have been included in the quoted price and prepaid by the vendor. All shipping claims will be the responsibility of the vendor.
2. Inside Delivery - if the vendor is required to deliver beyond the dock, additional inside delivery charges may be incurred. These charges must be stated on the Invitation to Bid form.

S. ACCEPTANCE OF GOODS DELIVERED

Commodities, when delivered, that fail to meet specifications, fail to conform to the vendor sample, or are not in satisfactory condition when received, shall be subject to rejection.

T. VENDOR PERFORMANCE REPORT

When a vendor fails to meet the contract requirements, 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. Legitimate Vendor Performance Reports will become a part of the permanent record for that vendor.

U. IN-STATE PREFERENCES

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 receive the award.

V. RENTALS/LEASES

All proposed rentals or leases of equipment by state agencies are treated the same as the procurement of a good per Neb. Rev. Stat. §81-161.03, 81-1118.03.

W. FREEDOM OF INFORMATION

All persons interested in the examination of public records, as defined in Neb. Rev. Stat. §84-712.01, are authorized to 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 included in the bid responses.

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.

Copyrighted materials may not be duplicated without permission of the owner.

X. PROMPT PAYMENT

Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act Neb. Rev. Stat. §81-2401 through 2408. The State may request that payment be made electronically instead of by State warrant. Payments in excess of \$75,000.00 will be made electronically.

Y. PROTEST/GRIEVANCE PROCEDURE

This standard policy is used for all commodity purchases made by AS Materiel Division State Purchasing Bureau. Administrative procedures if processed through the AS State Purchasing Bureau for filing grievances/protests, by a vendor, relating to an award are as follows:

1. Within ten (10) calendar days of the contract award, grievances/protests are to be expressed in writing to the Materiel Division Administrator, Department of Administrative Services, P.O. Box 94847, Lincoln, NE 68509-4847. The letter should state the bid number and specific issues that are to be addressed.
2. A response will be made by the Materiel Division Administrator.
3. * If the response from the Materiel Division Administrator has not satisfied the grievance of the vendor, a protest letter is to be sent to the Director of Administrative Services, Room 1315, State Capitol, P.O. Box 94664. Lincoln, NE 68509-4664.
4. A meeting will be scheduled with the vendor, the ordering agency (optional), the Materiel Division Administrator, and the Director of Administrative Services to discuss the issues.
5. A written response of the final decision by the Director of Administrative Services will be sent to the vendor.
6. * Step 3 may be eliminated if the vendor opts to grieve simultaneously to both the Materiel Division Administrator and the Director of Administrative Services.

Z. NEBRASKA TECHNOLOGY ACCESS STANDARDS

The 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 the Contract comply with the changed standard at a cost mutually acceptable to the parties.

V. STATUTES

A. 81-145 MATERIEL DIVISION; TERMS, DEFINED

As used in sections 81-145 to 81-162, unless the context otherwise requires:

(1) Materiel division shall mean the head of the division of the state government charged with the administration of sections 81-145 to 81-162 and 81-1118 to 81-1118.06, which division shall be a part of and subject to the supervision of the office of the Director of Administrative Services;

(2) Personal property shall include all materials, supplies, furniture, equipment, printing, stationery, automotive and road equipment, and other chattels, goods, wares, and merchandise whatsoever;

(3) Using agencies shall mean and include all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations; and

(4) Lease or contract shall mean an agreement entered into by the state or using agency with another party whereby, for a stated consideration, the state or using agency is to receive the personal property or use thereof furnished by the other party.

Source:

Laws 1943, c. 215, § 1, p. 704

R.S.1943, § 81-145

Laws 1963, c. 508, § 1, p. 1616

Laws 1965, c. 538, § 29, p. 1714

Laws 1975, LB 359, § 3

Laws 1975, LB 447, § 1

Laws 1992, LB 1241, § 12

Laws 2000, LB 654, § 5

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B. 81-153 MATERIEL DIVISION, POWERS AND DUTIES, ENUMERATED

The materiel division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the personal property required by the using agencies and the state;

(2) Promulgate, apply, and enforce standard specifications established as provided in section 81-154;

(3) Sell and dispose of personal property that is not needed by the state or its using agencies as provided in section 81-161.04 or initiate trade-ins when determined to be in the best interest of the state;

- (4) Determine the utility, quality, fitness, and suitability of all personal property tendered or furnished;
- (5) Make rules and regulations consistent with sections 81-145 to 81-171 and 81-1118 to 81-1118.06 to carry into effect the provisions thereof. Such rules and regulations shall include provisions for modifying and terminating purchase contracts and the cost principles to be used in such modification or termination;
- (6) Employ such clerical, technical, and other assistants as may be necessary to properly administer such sections, fix their compensation, and prescribe their duties in connection therewith, subject to existing laws and appropriations;
- (7) Allow the purchase of items without competitive bidding when the price has been established by the federal General Services Administration or to allow the purchase of items by participation in a contract competitively bid by another state or group of states. The division may also give consideration to a sheltered workshop pursuant to section 48-1503 in making such purchases;
- (8) Enter into any personal property lease agreement when it appears to be in the best interest of the state; and
- (9) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding.

Source:

Laws 1943, c. 215, § 9, p. 706

R.S.1943, § 81-153

Laws 1947, c. 310, § 1(1), p. 942

Laws 1955, c. 231, § 16, p. 725

Laws 1957, c. 368, § 3, p. 1295

Laws 1963, c. 508, § 6, p. 1617

Laws 1974, LB 1054, § 31

Laws 1975, LB 359, § 5

Laws 1975, LB 447, § 3

Laws 1981, LB 381, § 2

Laws 1984, LB 540, § 12

Laws 1992, LB 1241, § 14

Laws 2000, LB 654, § 9

Laws 2001, LB 96, § 1

Cross References:

Surplus property of United States, duties of Department of Correctional Services, see section 81-909.

Annotations:

These sections held not applicable to the Board of Regents which cannot delegate its constitutional powers and duties to other officers or agencies. Board of Regents v. Exon, 199 Neb. 146, 256 N.W.2d 330 (1977).

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C. 81-154 MATERIEL DIVISION, STANDARD SPECIFICATIONS

The materiel division shall establish and maintain standard specifications for personal property purchased in the name of the state. The materiel division shall enlist the cooperation and assistance of the using agencies in the establishment, maintenance, and revision of standard specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of personal property may be continuously accomplished. All such standard specifications shall be so drawn that it will be possible for three or more manufacturers, vendors, or suppliers to submit competitive bids. If a requisition for personal property exceeds twenty-five thousand dollars and bids cannot be obtained from three bidders, then the standard specifications of the personal property upon which bids are sought shall be reviewed by the materiel division and the using agencies involved. If it is determined by the materiel division, because of the special nature of the personal property sought to be purchased or leased or for any other reason, that the standard specifications should remain as written, bids may be accepted from a fewer number of bidders than three with the approval of the Governor or his or her designated representative.

Source:

Laws 1943, c. 215, § 10, p. 707

R.S.1943, § 81-154

Laws 1963, c. 508, § 7, p. 1618

Laws 1975, LB 359, § 6

Laws 1981, LB 381, § 3

Laws 1984, LB 933, § 12

Laws 1992, LB 1241, § 15

Laws 1997, LB 314, § 5

Laws 2000, LB 654, § 10

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D. 81-154.01 MATERIEL DIVISION, UNIVERSITY OF NEBRASKA; PURCHASE AGREEMENTS

The materiel division shall make available copies of current purchase agreements and standard specifications to the University of Nebraska. The University of Nebraska may utilize such purchase agreements if it determines that it would be to its advantage to do so. The materiel division may utilize purchase agreements entered into by the University of Nebraska upon a finding by the materiel administrator that the use of such agreements would be in the best interests of the state. For purposes of this section, purchase agreements do not include contracts for personal services subject to sections 73-301 to 73-307.

Source:

Laws 1981, LB 381, § 4

Laws 2000, LB 654, § 11

Laws 2007, LB 256, § 4

Effective date September 1, 2007

~Reissue Revised Statutes of Nebraska

E. 81-156 LABORATORY TESTS; FEE

The fee, required by any state or other laboratory for any analysis or test made by any prospective vendor prior to the award of a contract, shall be paid by such prospective vendor.

Source:

Laws 1943, c. 215, § 12, p. 708

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F. 81-159 REQUISITIONS BY USING AGENCY; PROCEDURES USED BY MATERIEL DIVISION

Each using agency shall, at the time, in the form, and for the periods prescribed by the materiel division, present to it detailed requisition for all personal property to be purchased or leased. The materiel division shall then arrange such schedules as are included in or covered by the requisition for purchase and contract and for advertising them in the manner best calculated to attract competition and advantageous price as set forth in sections 81-145 to 81-162 and 81-1118 to 81-1118.06. It shall prescribe the terms and conditions for delivery, inspections, and all other details thereof.

Source:

Laws 1943, c. 215, § 15, p. 708

R.S.1943, § 81-159

Laws 1963, c. 508, § 8, p. 1618

Laws 1975, LB 359, § 7

Laws 1981, LB 381, § 5

Laws 1992, LB 1241, § 16

Laws 2000, LB 654, § 12

G. 81-161 COMPETITIVE BIDS, AWARD TO LOWEST RESPONSIBLE BIDDER; ELEMENTS CONSIDERED

All purchases, leases, or contracts which by law are required to be based on competitive bids shall be made to the lowest responsible bidder, taking into consideration the best interests of the state, the quality or performance of the personal property proposed to be supplied, its conformity with specifications, the purposes for which required, and the times of delivery. In determining the lowest responsible bidder, in addition to price, the following elements shall be given consideration:

- (1) The ability, capacity, and skill of the bidder to perform the contract required;
- (2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;
- (3) Whether the bidder can perform the contract within the time specified;
- (4) The quality of performance of previous contracts;
- (5) The previous and existing compliance by the bidder with laws relating to the contract;
- (6) The life-cycle costs of the personal property in relation to the purchase price and specific use of the item;
- (7) The performance of the personal property, taking into consideration any commonly accepted tests and standards of product usability and user requirements;
- (8) Energy efficiency ratio as stated by the bidder for alternative choices of appliances or equipment;
- (9) The information furnished by each bidder concerning life-cycle costs between alternatives for all classes of equipment, evidence of expected life, repair and maintenance costs, and energy consumption on a per-year basis;
- (10) The results of the United States Environmental Protection Agency tests on fleet performance of motor vehicles. Each bidder shall furnish information relating to such results; and
- (11) Such other information as may be secured having a bearing on the decision to award the contract.

All political subdivisions may follow the procurement principles set forth in this section if they are deemed applicable by the official authorized to make purchases for such political subdivision.

Source:

Laws 1943, c. 215, § 17, p. 709

R.S.1943, § 81-161

Laws 1963, c. 508, § 9, p. 1619

Laws 1969, c. 780, § 3, p. 2955

Laws 1975, LB 359, § 8

Laws 1980, LB 954, § 60

Laws 1992, LB 1241, § 17

Laws 2000, LB 654, § 13

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H. 81-161.01 COMPETITIVE BIDS; TIME REQUIREMENTS; WAIVER

A minimum of fifteen days shall elapse between the time formal bids are advertised and the time of their opening, except that this requirement may be waived by the materiel administrator upon a showing by the using agency of an emergency, sole or specialized source, or other unique requirement.

Source:

Laws 1963, c. 508, § 10, p. 1620

Laws 1975, LB 447, § 4

Laws 1981, LB 381, § 6

Laws 2000, LB 654, § 14

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I. 81-161.02 COMPETITIVE BIDS; REJECTION BY MATERIEL DIVISION; GROUNDS; NEW BIDS

Any or all bids may be rejected by the materiel division. The materiel division may reject the bid of any bidder who has failed to perform a previous contract with the state. In any case where competitive bids are required and all bids are rejected, and the proposed purchase is not abandoned, new bids shall be solicited.

Source:

Laws 1963, c. 508, § 11, p. 1620

Laws 2000, LB 654, § 15

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J. 81-161.03 DIRECT PURCHASES, CONTRACTS, OR LEASES

The materiel division may, by written order, permit purchases, contracts, or leases to be made by any using agency directly with the vendor or supplier whenever it appears to the satisfaction of the materiel division that, because of the unique nature of the personal property, the price in connection therewith, the quantity to be purchased, the location of the using agency, the time of the use of the personal property, or any other circumstance, the interests of the state will be served better by purchasing or contracting direct than through the materiel division.

Such permission shall be revocable and shall be operative for a period not exceeding twelve months from the date of issue. Using agencies receiving such permission shall report their acts and expenditures under such orders to the materiel division in writing and furnish such agent with

proper evidence that competition has been secured at such time and covering such period as may be required by the materiel division.

The materiel division shall adopt and promulgate rules and regulations establishing criteria which must be met by any agency seeking direct market purchase authorization. Purchases for miscellaneous needs may be made directly by any agency without prior approval from the materiel division for purchases of less than ten thousand dollars if the agency has completed a certification program as prescribed by the materiel division.

The Department of Correctional Services may purchase raw materials, supplies, component parts, and equipment perishables directly for industries established pursuant to section 83-183, whether such purchases are made to fill specific orders or for general inventories. Any such purchase shall not exceed twenty-five thousand dollars. The department shall comply with the bidding process of the materiel division and shall be subject to audit by the materiel division for such purchases.

Source:

Laws 1943, c. 215, § 16, p. 709

R.S.1943, § 81-160

Laws 1963, c. 508, § 12, p. 1620

Laws 1975, LB 359, § 9

Laws 1975, LB 447, § 5

Laws 1981, LB 381, § 7

Laws 1984, LB 933, § 13

Laws 1987, LB 354, § 1

Laws 1992, LB 1241, § 18

Laws 1997, LB 314, § 6

Laws 2000, LB 654, § 16

Laws 2007, LB 256, § 5

Effective date September 1, 2007

~Reissue Revised Statutes of Nebraska

K. 81-161.04 MATERIEL DIVISION; SURPLUS PROPERTY; SALE; PROCEDURE; PROCEEDS OF SALE

(1) Whenever any using agency has any personal property for which it no longer has any need or use, it shall notify the materiel division in writing setting forth a description of the property and the approximate length of time that the property has been in the possession of the using agency. The materiel division shall appraise the property and notify all other using agencies of the state that the materiel division has the property for sale and that the property can be bought at the appraised price. No property will be sold until first offered to using agencies as provided by this section

unless the property is unusable. If the materiel division fails to receive an offer from any using agency, it may sell or dispose of the property by any method which is most advantageous to the State of Nebraska, including auction, sealed bid, private or public sale, or trade-in for other property, with priorities given to the other political subdivisions. All sales shall be made in the name of the State of Nebraska. The materiel division shall charge an administrative fee for the disposition of surplus property. Such administrative fee shall be a percentage of the amount of the sale of the surplus property. In the event surplus property is determined to have no market value, the materiel administrator may waive the administrative fee.

(2) Except as otherwise provided in this subsection, the proceeds of the sales shall be deposited with the State Treasurer and credited to the General Fund unless the using agency certifies to the materiel division that the property was purchased in part or in total from either cash accounts or federal funds or from a percentage of such accounts or funds, in which case the proceeds of the sale to that extent shall be credited to the cash or federal account in the percentage used in originally purchasing the property. The cost of selling surplus property shall be deducted from the proceeds of the surplus property sold. The proceeds received from the sale of passenger-carrying motor vehicles originally purchased with money from the General Fund, other than passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Transportation Services Bureau Revolving Fund. The proceeds received from the sale of passenger-carrying motor vehicles used by the Nebraska State Patrol, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Nebraska State Patrol Vehicle Replacement Cash Fund. The proceeds received from the sale of micrographic equipment, other than that of the University of Nebraska and state colleges, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Records Management Micrographics Services Revolving Fund. The proceeds received from the sale of aircraft, less selling costs, shall be deposited in the state treasury and credited by the State Treasurer to the Department of Aeronautics Cash Fund.

Source:

Laws 1943, c. 215, § 9, p. 706

R.S.1943, § 81-153

Laws 1947, c. 310, § 1(2), p. 943

Laws 1951, c. 313, § 1, p. 1071

R.R.S.1943, § 81-153.01

Laws 1963, c. 508, § 13, p. 1621

Laws 1969, c. 781, § 1, p. 2958

Laws 1972, LB 1452, § 1

Laws 1975, LB 447, § 6

Laws 1979, LB 559, § 17

Laws 1979, LB 590, § 1

Laws 1995, LB 381, § 1

Laws 2000, LB 654, § 17

~Reissue Revised Statutes of Nebraska

L. 81-162 PURCHASES OR LEASES; FORM OF CONTRACT

Contracts for purchases or leases may be made in any of the following forms:

- (1) For the furnishing of specific personal property at specific prices;
- (2) For the furnishing of personal property, according to the specifications, at a fixed rate for a minimum quantity, subject to furnishing a greater quantity at the same or a lesser rate; or
- (3) For the furnishing of personal property, according to the specifications without a stated minimum at a rate stated, commonly known as a price agreement.

The form of the contract to be used in any case shall be subject to the discretion of the materiel division.

Source:

Laws 1943, c. 215, § 18, p. 709

R.S.1943, § 81-162

Laws 1975, LB 359, § 11

Laws 1992, LB 1241, § 20

~Reissue Revised Statutes of Nebraska

M. 81-1118 MATERIEL DIVISION; ESTABLISHED; DUTIES; ADMINISTRATOR; BRANCHES ESTABLISHED

The materiel division of Administrative Services is hereby established and shall be managed by the materiel administrator.

There are hereby established the following seven branches of the materiel division of Administrative Services which shall have the following duties, powers, and responsibilities:

- (1) The office supplies bureau shall be responsible for providing office supplies, paper, and forms to using agencies;
- (2) Central mail shall be responsible for all mailing operations, transportation of material, tracking shipments, and making freight claims;
- (3) The print shop shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing and reproduction operations for the state. The print shop shall also be responsible for coordinating all existing printing and reproduction operations of the state;
- (4) Copy services shall be responsible for the purchasing and placement of all copier requirements;
- (5) The state purchasing bureau shall be responsible for all purchases by all state agencies other than the University of Nebraska. The materiel division shall administer the public notice and bidding procedures and any other areas designated by the Director of Administrative Services to carry out the lease or purchase of personal property. All purchases of and contracts for materials,

supplies, or equipment and all leases of personal property shall be made in the following manner except in emergencies approved by the Governor:

- (a) By a competitive formal sealed bidding process through the materiel division in all cases in which the purchases are of estimated value in the amount of twenty-five thousand dollars or more;
- (b) By a competitive informal bidding through the materiel division in all cases in which the purchases are of estimated value equal to or exceeding ten thousand dollars but less than twenty-five thousand dollars;
- (c) By unrestricted open market purchases through the materiel division in all cases in which purchases are of estimated value of less than ten thousand dollars;
- (d) All requisitions for whatever purpose coming to the state purchasing bureau shall be in conformance with the approved budget of the requisitioning department or agency; and
- (e) All contracts for purchases and leases shall be bid as a single whole item. In no case shall contracts be divided or fractionated in order to produce several contracts which are of an estimated value below that required for competitive bidding;
- (6) The state recycling office shall be responsible for the administration and operation of the State Government Recycling Management Act; and
- (7) State surplus property shall be responsible for the disposition of the state's surplus property and the maintenance of all inventory records.

Nothing in this section shall be construed to require that works of art must be procured through the materiel division.

Source:

Laws 1965, c. 538, § 18, p. 1705

Laws 1969, c. 780, § 4, p. 2955

Laws 1974, LB 1054, § 32

Laws 1975, LB 359, § 14

Laws 1975, LB 447, § 8

Laws 1981, LB 381, § 29

Laws 1992, LB 1241, § 27

Laws 1997, LB 314, § 11

Laws 1998, LB 1129, § 24

Laws 2000, LB 654, § 26

Laws 2003, LB 626, § 10

Cross References:

State Government Recycling Management Act, see section 81-1183.

~Revised Statutes Cumulative Supplement, 2006

N. 81-1118.01 MATERIEL ADMINISTRATOR; INVENTORY RECORD; STATE PROPERTY; POWERS AND DUTIES

The materiel administrator shall have complete control of all furniture and equipment in the capitol, state laboratory, Governor's Mansion, and all other buildings owned or leased by the State of Nebraska, except telephone and telecommunications equipment and equipment and furniture of the Legislature and the Supreme Court. The materiel administrator shall keep in his or her office a complete record containing an itemized account of all state property, including furniture and equipment under his or her care and control. Such inventory record shall be maintained as a management system to assure efficient utilization of state property with particular emphasis on identification of surpluses. Such system shall be designed so as to provide the materiel administrator with the knowledge of potential surplus property available. The materiel administrator under the authority of the Director of Administrative Services shall have complete control and all powers necessary to assure efficient utilization of state property.

Source:

Laws 1974, LB 1048, § 38

Laws 2000, LB 654, § 27

~Revised Statutes Cumulative Supplement, 2006

O. 81-1118.02 ALL OFFICERS, DEPARTMENTS AND AGENCIES; STATE PROPERTY; INVENTORY; HOW STAMPED; ACTION TO RECOVER

(1) Each executive, department, commission, or other state agency, including the Supreme Court, the Board of Regents of the University of Nebraska, the State Board of Community Colleges, and the Board of Trustees of the Nebraska State Colleges, shall annually make or cause to be made an inventory of all property, including furniture and equipment, belonging to the State of Nebraska and in the possession, custody, or control of any executive, department, commission, or other state agency. The inventory shall include property in the possession, custody, or control of each executive, department, commission, or other state agency as of June 30 and shall be completed and filed with the materiel administrator by August 31 of each year.

(2) If any of the property of the state, referred to in subsection (1) of this section, is lost, destroyed, or unaccounted for by the negligence or carelessness of the executive, department, commission, or other state agency, the administrator shall, with the advice of the Attorney General, take the proper steps to recover such state property or the reasonable value thereof from the executive, department, commission, or other state agency charged with the same and from the person bonding such executive, department, commission, or other state agency, if any.

(3) Each such executive, department, commission, or other state agency shall indelibly tag, mark, or stamp all such property belonging to the State of Nebraska, with the following: Property of the State of Nebraska. In the inventory required by subsection (1) of this section, each such executive, department, commission, or other state agency shall state positively that each item of such property has been so tagged, marked, or stamped.

Source:

Laws 1937, c. 161, § 1, p. 625

Laws 1939, c. 94, § 1, p. 407

Laws 1941, c. 144, § 1, p. 573

C.S.Supp.,1941, § 72-707

R.S.1943, § 72-707

Laws 1955, c. 278, § 3, p. 881

Laws 1957, c. 306, § 1, p. 1112

Laws 1959, c. 331, § 2, p. 1205

Laws 1963, c. 418, § 3, p. 1343

R.R.S.1943, § 72-707

Laws 1974, LB 1048, § 39

Laws 1981, LB 545, § 32

Laws 1984, LB 933, § 17

Laws 1989, LB 256, § 1

~Reissue Revised Statutes of Nebraska

**P. 81-1118.03 PERSONAL PROPERTY; PURCHASE OR LEASE; APPROVAL;
SOLICITATION BY DEPARTMENT OF ADMINISTRATIVE SERVICES**

Notwithstanding any other provision of law, all contracts for or leases of personal property shall be subject to the following conditions:

(1) No purchase or lease of property shall be approved until a solicitation for purchase or lease has been made by Administrative Services. Such solicitation shall be in the form of a public notice of the proposed purchase or lease and a general description of the personal property needed in a paper of general circulation in the area where the agency will be operating or by any other method approved by the materiel administrator;

(2) Administrative Services shall be the sole and final authority on purchases and leases of personal property by a using agency. In any case when the approval of the Governor is required, the Governor may, in his or her discretion, confer complete authority upon Administrative Services in the review and approval of purchase and lease proposals;

(3) Administrative Services shall adopt and promulgate rules and regulations to (a) develop and implement purchasing and leasing policies and procedures which shall insure economical and efficient operations of state agencies and (b) carry out the provisions of sections 81-145 to 81-162; and

(4) The Director of Administrative Services shall refuse to issue warrants for the disbursement of any funds in payment of contracts or leases which have not been approved according to law.

Source:

Laws 1975, LB 359, § 15

Laws 1992, LB 1241, § 28

Laws 2000, LB 654, § 28

~Revised Statutes Cumulative Supplement, 2006

Q. 81-1118.04 MATERIEL DIVISION; PURPOSES

The purposes of the materiel division are to maximize the state's purchasing power through an efficient and standardized state procurement system and centralized office services and supply program and to maximize the utilization of and control the inventory of state-owned equipment.

Source:

Laws 1981, LB 381, § 40

Laws 2000, LB 654, § 29

~Revised Statutes Cumulative Supplement, 2006

R. 81-1118.05 MATERIEL DIVISION; POWERS AND DUTIES

The materiel division of Administrative Services shall:

(1) Establish by rules and regulations a process for resolving complaints from both vendors and state agencies;

(2) Maintain a record and written justification of purchases as follows:

(a) A list of and explanation for emergency purchases;

(b) A list of open market purchases made by the division; and

(c) A list of all purchases waived from the minimum time period requirement between bid advertisement and bid opening; and

(3) Have the authority to enter into joint purchasing agreements with political subdivisions in the state.

Source:

Laws 1981, LB 381, § 30

~Reissue Revised Statutes of Nebraska

S. 81-1118.06 MATERIEL DIVISION; STATE PURCHASING BUREAU; PURPOSES

The purposes of the state purchasing bureau created by section 81-1118 are:

- (1) To increase public confidence in the procedures followed in public procurement;
- (2) To insure 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.

Source:

Laws 1981, LB 381, § 31

Laws 2000, LB 654, § 30

~Revised Statutes Cumulative Supplement, 2006

T. 81-1184 LEGISLATIVE INTENT

It is the intent of the State Government Recycling Management Act and the public policy of this state to recognize the importance of limited natural resources, to prevent waste, and to promote the most energy-saving and resource-saving use of state government recyclable material and the most efficient and economical method of recycling and disposing of such recyclable material.

Source:

Laws 1986, LB 380, § 2

R.S.1943, (1987), § 81-1140.02

Laws 1990, LB 987, § 3

R.S.Supp.,1990, § 81-1643

Laws 2000, LB 654, § 37

~Revised Statutes Cumulative Supplement, 2006

U. 81-1185 STATE GOVERNMENT RECYCLABLE MATERIEL, DEFINED

For purposes of the State Government Recycling Management Act, state government recyclable material shall mean any product or material that has reached the end of its useful life, is obsolete, or is no longer needed by state government and for which there are readily available markets to take the material. State government recyclable material includes, but is not limited to, paper, paperboard, aluminum and other metals, yard waste, glass, tires, oil, and plastics.

Source:

Laws 1986, LB 380, § 1

R.S.1943, (1987), § 81-1140.01

Laws 1990, LB 987, § 2

R.S.Supp.,1990, § 81-1644

Laws 2000, LB 654, § 38

~Revised Statutes Cumulative Supplement, 2006

V. 81-1186 DEPARTMENT; DUTIES

A program for the collection for recycling and sale of state government recyclable material shall be designed and implemented by Administrative Services in all state-operated buildings.

Source:

Laws 1986, LB 380, § 3

R.S.1943, (1987), § 81-1140.03

Laws 1990, LB 987, § 4

R.S.Supp.,1990, § 81-1645

Laws 1992, LB 1257, § 97

Laws 2000, LB 654, § 39

~Revised Statutes Cumulative Supplement, 2006

W. 81-1187 DISPOSITION OF STATE GOVERNMENT RECYCLABLE MATERIEL

Administrative Services shall obtain pricing information and shall contract to sell state government recyclable material for the best terms available in the marketplace. If the department is unable to locate a purchaser for such recyclable material or such sale would not be in the best economic interests of the state and the department is unable to locate a nonpaying contractee to recycle such recyclable material, the department shall make such other disposition of such recyclable material as is most practical and in the best interests of the state.

Source:

Laws 1986, LB 380, § 4

R.S.1943, (1987), § 81-1140.04

Laws 1990, LB 987, § 5

R.S.Supp.,1990, § 81-1646

Laws 1992, LB 1257, § 98

Laws 2000, LB 654, § 40

~Revised Statutes Cumulative Supplement, 2006

X. 81-1188 RESOURCE RECOVERY FUND; CREATED; USE; INVESTMENT

The Resource Recovery Fund is created. The fund shall be administered by Administrative Services. All proceeds from the program required by section 81-1186 and fifteen percent of all proceeds from the sale of surplus property sold to be remanufactured or reprocessed shall be deposited in the fund. The fund shall be used for the administration and implementation of the program, except that transfers from the fund to the General Fund may be made at the direction of the Legislature.

Any money in the Resource Recovery Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer two hundred fifty thousand dollars from the Resource Recovery Fund to the General Fund within fifteen days after July 1, 2002.

Source:

Laws 1986, LB 380, § 5

R.S.1943, (1987), § 81-1140.05

Laws 1990, LB 987, § 6

Laws 1991, LB 429, § 1

R.S.Supp.,1991, § 81-1647

Laws 1992, LB 1257, § 99

Laws 1994, LB 1066, § 105

Laws 2002, LB 1310, § 19

Cross References:

Nebraska Capital Expansion Act, see section 72-1269.

Nebraska State Funds Investment Act, see section 72-1260.

~Revised Statutes Cumulative Supplement, 2006

Y. 81-1189 RULES AND REGULATIONS

Administrative Services may adopt and promulgate all rules and regulations necessary to carry out the State Government Recycling Management Act.

Source:

Laws 1986, LB 380, § 6

R.S.1943, (1987), § 81-1140.06

Laws 1990, LB 987, § 7

R.S.Supp.,1990, § 81-1648

Laws 1992, LB 1257, § 100

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Z. 81-15,159 LEGISLATIVE FINDINGS AND INTENT, STATE PURCHASES, PREFERENCE REQUIREMENTS

In order to implement the Petroleum Products and Hazardous Substances Storage and Handling Act and the Petroleum Release Remedial Action Act, the Director of Environmental Quality shall appoint a technical advisory committee to work with the Department of Environmental Quality. The duties of the committee are advisory only. Committee members shall include, but not be limited to:

- (1) The Director of Environmental Quality or his or her designee;
- (2) The State Fire Marshal or his or her designee;
- (3) The executive director of the Nebraska Petroleum Marketers and Convenience Store Association or his or her designee;
- (4) The executive director of the League of Nebraska Municipalities or his or her designee;
- (5) The executive director of the Nebraska Association of County Officials or his or her designee;
- (6) The executive director of the Nebraska Petroleum Council or his or her designee;
- (7) The executive director of the American Consulting Engineers Council of Nebraska or his or her designee;
- (8) The executive director of the Nebraska Chamber of Commerce and Industry or his or her designee;
- (9) The executive director of the Associated Builders and Contractors or his or her designee;
- (10) The executive director of the Nebraska Cooperative Council or his or her designee;
- (11) A representative of the Department of Health and Human Services or a representative of the Department of Health and Human Services Regulation and Licensure; and
- (12) A member of the public representing environmental interests.

Committee members shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Source:

Laws 1996, LB 1226, § 19

Laws 1998, LB 1161, § 47

Cross References:

Petroleum Products and Hazardous Substances Storage and Handling Act, see section 81-15,117.

Petroleum Release Remedial Action Act, see section 66-1501.

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AA. 81-2401 – 81-2408 PROMPT PAYMENT ACT

1. 81-2401 – Act, How Cited

Sections 81-2401 to 81-2408 shall be known and may be cited as the Prompt Payment Act.

Source:

Laws 1988, LB 1079, § 1

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2. 81-2402 – Terms, defined

As used in the Prompt Payment Act, unless the context otherwise requires:

(1) Agency shall mean the state and any agency, department, office, commission, board, panel, or division of the state;

(2) Bill shall mean a proper billing or invoice which requests a payment and which is supplemented by all necessary verification and forms required by agency rules and regulations to process payments;

(3) Creditor shall mean any person, corporation, association, or other business concern engaged in a trade or business, either on a for-profit or not-for-profit basis, and providing any goods or services to an agency;

(4) Good faith dispute shall mean:

(a) A contention by the agency that goods delivered or services rendered were of less quantity or quality than ordered or specified by contract, faulty, or installed improperly; or

(b) Any other reason giving cause for the withholding of payment by the agency until the dispute is settled, except that failure to give notice as prescribed in section 81-2405 shall preclude an agency from claiming a good faith dispute in the case of a defective or improper billing;

(5) Goods shall mean any goods, supplies, materials, equipment, or other personal property but shall not mean any real property; and

(6) Services shall mean any contractual services, including, but not limited to, architectural, engineering, medical, financial consulting, or other professional services, any construction services, and any other personal services but shall not mean any services performed as an officer or employee of any agency.

Source:

Laws 1988, LB 1079, § 2

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3. **81-2403 – Goods or Services; Payment in Full; When Required**

(1) Except as provided in subsection (2) of this section, each agency shall make payment in full for all goods delivered or services rendered on or before the forty-fifth calendar day after (a) the date of receipt by the agency of the goods or services or (b) the date of receipt by the agency of the bill for the goods or services, whichever is later, unless other provisions for payment are agreed to in writing by the creditor and the agency.

(2) Any agency making payment for goods or services provided for third parties shall make payment in full for such goods or services on or before the sixtieth calendar day after the date of receipt by the agency of the bill.

(3) No goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency. For purposes of determining whether payment was made in accordance with this section, payment in full by an agency shall be considered to be made on the date the warrant or check for such payment was mailed or otherwise transmitted.

Source:

Laws 1988, LB 1079, § 3

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4. **81-2404 – Creditor; charge interest, when**

Any creditor of an agency not receiving payment in full for goods delivered or services rendered within the forty-five-day or sixty-day time period, whichever is applicable, may charge the agency interest on the unpaid principal balance at the rate specified in section 45-104.02, as such rate may from time to time be adjusted. Interest charges shall begin to accrue on the thirty-first calendar day after (1) the date of receipt by the agency of the goods or services or (2) the date of receipt by the agency of the bill for the goods or services, whichever is later, and shall terminate on the date on which payment in full of the amount due is made. Each agency shall pay the interest charge upon request unless the bill is the subject of a good faith dispute between the agency and the creditor. No claim by a creditor for interest charges shall be allowed unless the agency is requested to pay the interest charges within ninety calendar days from the date on which payment in full is due.

Source:

Laws 1988, LB 1079, § 4

Laws 1992, Fourth Spec. Sess., LB 1, § 42

~Reissue Revised Statutes of Nebraska

5. **81-2405 – Incorrect bill; notice to creditor; corrected bill; payment.**

When a bill submitted to an agency is filled out incorrectly or when there is any defect or impropriety in a bill submitted, the agency shall notify the creditor in writing prior to the date on which payment in full is due. The notice shall contain a description of the defect or impropriety and any additional information necessary to enable the creditor to correct the bill. Upon receiving a properly corrected bill, the agency shall make payment in full of the bill on or before the forty-fifth calendar day after the receipt of the corrected bill or, when

the agency is making payment for goods or services provided by a third party, on or before the sixtieth calendar day after the receipt of the corrected bill.

Source:

Laws 1988, LB 1079, § 5

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6. **81-2406 - Act, how construed.**

Nothing in the Prompt Payment Act shall be construed to prohibit full or partial payments by agencies for goods or services whether or not such goods or services have been completely received or finally accepted by the agencies.

Source:

Laws 1988, LB 1079, § 6

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7. **81-2407 - Act; applicability.**

The Prompt Payment Act shall not apply to the following:

(1) Claims subject to a good faith dispute if notice of the dispute is conveyed to the creditor in writing before the time required for payment, except that the Prompt Payment Act shall take effect on the date that the dispute is resolved;

(2) Contracts related to highway or road construction, reconstruction, or maintenance; and

(3) Claims, contracts, or projects which are to be paid for exclusively with federal funds.

Source:

Laws 1988, LB 1079, § 7

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8. **81-2408 - Agency; reports; required.**

Each agency shall report monthly to the Director of Administrative Services and the Legislative Fiscal Analyst any account that has not been paid within the applicable time period prescribed by section 81-2403. Each agency shall report annually any interest charge on a past-due account, whether paid or unpaid, to the Governor and to the Appropriations Committee of the Legislature.

Source:

Laws 1988, LB 1079, § 8

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BB. 84-712.01 PUBLIC RECORDS; RIGHT OF CITIZENS, FULL ACCESS, ACCESS BY MODEM; FEE AUTHORIZED

(1) Except when any other statute expressly provides that particular information or records shall not be made public, public records shall include all records and documents, regardless of physical form, of or belonging to this state, any county, city, village, political subdivision, or tax-supported district in this state, or any agency, branch, department, board, bureau, commission, council, subunit, or committee of any of the foregoing. Data which is a public record in its original form shall remain a public record when maintained in computer files.

(2) When a custodian of a public record of a county provides to a member of the public, upon request, a copy of the public record by transmitting it from a modem to an outside modem, a reasonable fee may be charged for such specialized service. Such fee may include a reasonable amount representing a portion of the amortization of the cost of computer equipment, including software, necessarily added in order to provide such specialized service. This subsection shall not be construed to require a governmental entity to acquire computer capability to generate public records in a new or different form when that new form would require additional computer equipment or software not already possessed by the governmental entity.

(3) Sections 84-712 to 84-712.03 shall be liberally construed whenever any state, county, or political subdivision fiscal records, audit, warrant, voucher, invoice, purchase order, requisition, payroll, check, receipt, or other record of receipt, cash, or expenditure involving public funds is involved in order that the citizens of this state shall have the full right to know of and have full access to information on the public finances of the government and the public bodies and entities created to serve them.

Source:

Laws 1961, c. 454, § 2, p. 1383

Laws 1979, LB 86, § 2

Laws 1994, LB 1275, § 12

Laws 2000, LB 628, § 2

~Revised Statutes Cumulative Supplement, 2006

CC. 84-712.05 RECORDS WHICH MAY BE WITHHELD FROM THE PUBLIC; ENUMERATED

The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any educational institution or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person; records of elections filed under section 44-2821; and patient safety work product under the Patient Safety Improvement Act;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of

confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, job application materials means employment applications, resumes, reference letters, and school transcripts, and finalist means any applicant who is offered and who accepts an interview by a public body or its agents, representatives, or consultants for any public employment position; and

(16) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens.

Source:

Laws 1979, LB 86, § 5

Laws 1983, LB 108, § 1

Laws 1983, LB 565, § 1

Laws 1993, LB 579, § 6

Laws 1993, LB 590, § 6

Laws 1993, LB 719, § 2

Laws 1994, LB 1061, § 7

Laws 1994, LB 1224, § 88

Laws 1995, LB 343, § 7

Laws 1995, LB 509, § 6

Laws 1999, LB 137, § 1

Laws 2002, LB 276, § 7

Laws 2004, LB 236, § 1

Laws 2004, LB 868, § 3

Laws 2005, LB 361, § 37

Cross References:

Patient Safety Improvement Act, see section 71-8701.

Unmarked Human Burial Sites and Skeletal Remains Protection Act, see section 12-1201.

Annotations:

Court upheld Attorney General's refusal to disclose requested documents pursuant to subsections (4) and (5) of this section. *State ex rel. Sileven v. Spire*, 243 Neb. 451, 500 N.W.2d 179 (1993).

~Revised Statutes Cumulative Supplement, 2006