

## **TITLE 9        MATERIEL DIVISION**

### **CHAPTER 1   PROCUREMENT AND CONTRACTING**

001. REMOVAL FROM BIDDING. Any vendor whose performance has been unsatisfactory may be suspended or debarred from bidding. The vendor will be given written notification of debarment or suspension action and its duration. Conditions that may warrant removal or suspension include:

(A) Failure to respond to three consecutive bid invitations (NOTE: a reply of "no bid" is an acceptable response);

(B) Improper or no delivery;

(C) Failure to perform or adhere to a contract with the State of a political subdivision; and

(D) Unsatisfactory performance or customer service.

#### **002. METHOD OF PROCUREMENT.**

002.01 The State Purchasing Bureau (SPB) shall determine the method of procurement to be utilized in the acquisition of any needed goods or services.

002.02 The materiel division may authorize an agency to purchase directly from a vendor if the materiel determines that the direct purchase is in the best interests of the State. In making such determination, the materiel division will consider the nature of the items needed, the quantity desired, the anticipated price involved, the location of the requesting agency, time limitations, and other circumstances.

003. STANDARD CONDITIONS AND TERMS. A request is used to solicit competitive bids from vendors. The following conditions and terms apply to the completion of the request by the vendor:

003.01 PRE-BID MEETING. At SPB's discretion a pre-bid meeting may be held for the purpose of explaining specifications or other aspects of the request. All interested vendors are eligible to attend.

003.02 COMPLIANCE WITH REQUESTS. Bids must comply with the requirements and instructions found in the individual requests. The State reserves the right to waive requirements in each request and reserves the right to reject any and all bids.

003.03 COLLUSIVE BIDDING. The bidder's signature on the request 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.

003.04 CORRECTION OF BIDS. A correction may be made to a bid by a vendor if such correction is received by the SPB prior to the date and time of the bid opening. A correction may be made after bid opening in the discretion of SPB.

003.05 BID OPENINGS. Bids received by the SPB on or before the time and date specified on the request are eligible for award. Bids received after this time and date will be returned to the vendor unopened. The SPB is not be responsible for late bids or lost requests. Bids will be opened and read publicly on the date and at the hour designated on the request.

#### 004. AWARDING OF CONTRACT.

004.01 METHOD OF AWARD. The State reserves the right to award the bid item-by-item, by groups or as a total, unless otherwise specified by the bidder. The State reserves the right to waive any technicality in any bid.

004.02 TIE BIDS AND PREFERENCE. Bids which are equal in all respects and tied in price will be resolved by drawing lots. Nebraska vendors will be given preference. Tie bids involving more than one Nebraska vendor will be resolved by drawing lots among the Nebraska vendors.

004.03 GRIEVANCES. Any vendor grievances related to an action or determination of the SPB shall be expressed in writing to the Administrator of the Materiel Division of the Department of Administrative Services. A protest of an award must be filed with the Materiel Administrator within ten (10) business days after the intent to award is posted to the SPB's website.

004.04 NOTIFICATION OF AWARD. Notification of award to the successful vendor will be sent by SPB.

#### 005. EXECUTION OF CONTRACT.

005.01 DELIVERY ACCEPTANCE. All deliveries are subject to inspection and approval. Items that do not meet the specifications of the purchase order or are not delivered in good condition may be rejected. Any item rejected by the State shall be removed at the vendor's expense.

005.02 CHANGE ORDER. A change order will be utilized by the SPB to notify a vendor of a change in the purchase order. The change order will identify the affected portion(s) of the original purchase order, corresponding change(s) required, and the reason(s) for the change(s).

005.03 PERFORMANCE AND DEFAULT. The State may require a performance bond from the successful bidder without expense to the State. In case of default by the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess costs occasioned thereby.

005.04 ACTS OF SUBCONTRACTORS. Vendors are responsible for all acts and performance of subcontractors or secondary suppliers utilized in providing goods or services to the State. Vendors are responsible for payment of all subcontractors and secondary suppliers.

005.05 CANCELLATION OF PURCHASE ORDER. The State of Nebraska may cancel a purchase order for noncompliance with the purchase order or if the related contract has been cancelled. The vendor will be notified in writing that a purchase order has been canceled.