

Nebraska Department of Transportation Procurement Policy

NOTICE

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

Policy No: 25-24-05
Application: Goods and Services
Subject: Exceptions to Competitive Bidding
Effective Date: 07-01-2025

I. GENERAL RULES

- A. Nebraska Department of Transportation (NDOT) Agency Personnel are to request an exception from the competitive bidding requirements of the State Procurement Act for any sole source contracts, contracts with pricing established by the General Services Administration, otherwise competitively bid contracts, emergency contracts and other circumstances.
- B. NDOT Agency Personnel bear the burden to show that an exception is warranted. See, Neb. Rev. Stat. § 73-812(3) and Neb. Rev. Stat. § 73-813 (1).
- C. Except for contracts that have been otherwise competitively bid, contracts that receive an exception from NDOT's procurement process must still comply with the provisions of Neb. Rev. Stat. § 73-812.

II. SOLE SOURCE CONTRACTS

NDOT will be following DAS's standard requirements for justification required for sole source requests.

- A. The NDOT Deputy Director of Operations or designee determines whether NDOT Agency Personnel's sole source contract request meets the definition contained in Neb. Rev. Stat. § 73-803 (10).
- B. If the NDOT Deputy Director of Operations or designee does not respond to a NDOT Agency Personnel's sole source request within ten (10) business days of its submission, the request is denied by default.
- C. In making a request for a sole source exception to the competitive bidding requirements State Procurement Act, NDOT Agency Personnel are to submit to NDOT Procurement documentation showing the following:
 1. NDOT Agency Personnel researched contractor options, including Statewide Contracts, for the desired service or personal property.
 2. No other contractor can provide the desired service or personal property, OR no other contractor can provide the desired service or personal property at the required location.
 3. NDOT Agency Personnel cannot write the specifications more broadly to encourage competition.

- D. Publication of Intent to Sole Source:
 1. After the NDOT Deputy Director of Operations or designee approves NDOT Agency Personnel's sole source request, NDOT Procurement may publish an Intent to Sole Source on NDOT Procurement's webpage for ten (10) business days.
 2. An Intent to Sole Source includes the proposed specifications or quote and NDOT Agency Personnel's sole source request.
 3. During the publication period, vendors may respond to the Intent to Sole Source, informing NDOT Procurement of their ability to provide services or personal property that meets NDOT's needs.
 4. If a vendor's response demonstrates that the proposed sole source contract does not meet the definition in Neb. Rev. Stat. § 73-803(10), the NDOT Deputy Director of Operations or designee may revoke sole source approval.
 5. A sole source request is not finally approved by the NDOT Deputy Director of Operations or designee until fifteen (15) business days after the Intent to Sole Source has been published.
- E. NDOT will submit Sole Source Requests to DAS for review.
 1. DAS's review is only to confirm that there is a good faith justification for the request, rather than reviewing whether DAS agrees with the reasons for the request, meaning DAS will not reject or second-guess the NDOT's request unless there is no plausible justification provided by the Agency.
 2. If DAS does not conclude the review of an NDOT request within 10 days after submittal, NDOT may deem the request **accepted** by DAS.
- F. To request a sole source exception from the competitive bidding requirements of the State Procurement Act NDOT Agency Personnel must
 1. Complete NDOT Form 2.
 2. Attach any supporting materials for NDOT Form 2, including a letter from the vendor if the sole source request is based on single source distribution or proprietary.
 3. Attach the specifications or quote of the proposed purchase.
 4. Attach any supplemental documentation of approval to contract from the Department of Administrative Services - Budget Division (Pre-Agreement Outcome Tool).

III. **CONTRACTS WITH GSA PRICING**

- A. The State of Nebraska may contract directly with a Contractor without competitive bidding when the Contractor offers the State of Nebraska the same pricing that it is currently offering the General Services Administration (GSA). See Neb. Rev. Stat. § 73-813(1)(a).
- B. Unless otherwise approved by the Materiel Administrator, contracts with pricing established by the GSA are managed by State Purchasing Bureau.
- C. To request an exception from the competitive bidding requirements of the State Procurement Act for a contract with pricing established by the GSA, NDOT Procurement will enter an 08 Requisition in E1 and attach the following:
 1. Completed NDOT Form 4.
 2. The Quote from the vendor and documentation of GSA pricing.
 3. The terms and conditions of the purchase.
 4. Any supplemental documentation of approval to contract from the Department of Administrative Services - Budget Division.

IV. **OTHERWISE COMPETITIVELY BID CONTRACTS**

- A. NDOT will request permission from State Purchasing Bureau to negotiate purchasing from a contract that was otherwise competitively bid under Neb. Rev. Stat. § 73-813 (1)(a).

- B. To request an exception from the competitive bidding requirements of the State Procurement Act for a contract that has otherwise been competitively bid, NDOT Procurement will enter an 08 Requisition in E1 and attach the following:
 - 1. Completed NDOT Form 3;
 - 2. A copy of the otherwise competitively bid contract; and
 - 3. Any supplemental documentation of approval to contract from the Department of Administrative Services - Budget Division.
- C. Unless otherwise approved by the Director of Administrative Services or designee, State Purchasing Bureau manages contracts that have been otherwise competitively bid.

V. EMERGENCY

- A. The NDOT Director or their designee may approve and enter emergency contracts that meet the definition in Neb. Rev. Stat. § 73-803(6) or under the authority and established procedures of Neb. Rev. Stat. § 39-1343.

VI. DIRECT PURCHASE AUTHORITY (Goods Only}

- A. The Department of Administrative Services (DAS) Materiel Administrator determines whether a Procuring Agency's request for direct purchase authority is merited under Neb. Rev. Stat. § 73-814.
- B. If the Materiel Administrator does not respond to a Procuring Agency's direct purchase authority request within 10 business days of its submission, the request is denied by default.
- C. The Procuring Agency bears the burden to show the following:
 - 1. The requirements of Neb. Rev. Stat. § 73-814 (1) are met.
 - 2. Competitively bidding the purchase of the identified personal property is unnecessary under the circumstances due to the urgency of the purchase, the availability of the personal property, or another factor; AND
 - 3. No statewide contract exists for the acquisition of the identified personal property or the Materiel Administrator has granted an exception from Statewide contract usage.
- D. To request an exception from the competitive bidding requirements of the State Procurement Act based on a grant of direct purchase authority, enter an 08 Requisition in E1 and attach the following:
 - 1. Completed SPB Form 8 with any required attachments;
 - 2. Any supplemental documentation of approval to contract from the Department of Administrative Services - Budget Division.
- E. If the Materiel Administrator or designee does not respond to a Procuring Agency's direct purchase authority request within ten (10) business days of its submission, the request is denied by default.

VII. OTHER CIRCUMSTANCES

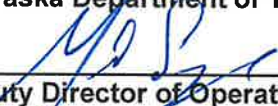
- A. NDOT Agency Personnel bear the burden to prove to NDOT Procurement Manager and/or the NDOT Deputy Director of Operations that due to the circumstances listed in Neb. Rev. Stat. § 73-813 (1)(b), an exception from the competitive bidding requirements of the State Procurement Act is merited.
- B. To request a sole source exception from the competitive bidding requirements of the State Procurement Act, NDOT Agency Personnel shall submit to NDOT Procurement the following:
 - 1. Completed NDOT Form 2.
 - 2. Any supporting materials for NDOT Form 2.
 - 3. The terms and conditions of the purchase, including any terms and conditions desired by the vendor.

- 4. Any supplemental documentation.
- C. If the NDOT Deputy Director of Operations does not respond to a request for exception from competitive bidding due to other circumstances within ten (10) business days of its submission, the request is denied by default.

The foregoing policy is duly signed and executed on this 9th day of June 2025.


Procurement Manager,
Nebraska Department of Transportation

6/5/25
Date


Deputy Director of Operations,
Nebraska Department of Transportation

6/9/25
Date