

BCN Purchasing Contract Procedures

Contracts related to procurement, the purchase of goods or services, are processed by Business Center North (BCN) Purchasing. The following is the process and language required for the preparation and signing of those contracts, and is designed to explain the procedure, reduce the number of needed corrections, and facilitate timely processing from start to finish for everyone involved.

Contracts, agreements, letters or memorandums of agreement, intent, understanding, vendor quotes or proposals, etc. (all hereinafter referred to as “contracts”), regardless of what they may be called, or the dollar amount involved, may not be signed at the department or college level. This requirement includes any online agreements, licenses, etc., required when ordering online.

Contract Requirements

To ensure each contract is processed in a timely manner, it is important the contract meets the requirements established in Chapter 5, Sections 2 and 3 of the *Nevada System of Higher Education, Procedures & Guidelines Manual*: www.nshe.nevada.edu/leadership-policy/board-of-regents/procedures-guidelines-manual/. Contracts for procurement should also adhere to policies and procedures detailed in the *BCN Purchasing Guidelines*: www.bcnpurchasing.nevada.edu/about-us/bcn-purchasing-guidelines/

Procurement contracts that need to be signed should be submitted as an attachment to a Workday requisition, and the BCN Purchasing Department will process the contract together with issuing the purchase order. Many times before the requisition is submitted, the faculty and/or staff member is working with the supplier or contractor negotiating terms and conditions or settling on specifics of the purchase. That is the ideal time to ensure the contract language is correct and will allow for speedy processing. Following are the areas where corrections most commonly have to be made which can result in delays. Prior to submitting a contract for signature, it will be very helpful to see that the following language, as appropriate, is included at the time of preparation.

1. All contracts must be entered into by: **The Board of Regents of the Nevada System of Higher Education on behalf of the *institution***. This language is usually contained in the introductory paragraph(s) of the contract.
2. Similarly, the signature block must read as: **For the Board of Regents of the Nevada System of Higher Education on behalf of the *institution***.
3. It is not generally the policy of NSHE to volunteer to put a hold-harmless or indemnification clause in a contract that benefits the other party to the contract. Only where the other party requests such a clause should it be included. Also, whenever a hold-harmless clause is required by the other party, then NSHE must insist on a mutual hold-harmless clause that benefits NSHE, its officers and employees. If the other party insists on a hold-harmless or indemnification clause, our statement must include the specific wording which has been approved by System Legal Counsel, as follows in the next two paragraphs:

“To the extent limited in accordance with NRS 41.0305 to NRS 41.039, the Board of Regents of the Nevada System of Higher Education (NSHE) on behalf of the *institution* shall indemnify, defend and hold harmless (*name of other party*) from and against any and all liabilities, claims, losses, lawsuits, judgments, and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by the NSHE or any of its officers or employees, which the NSHE will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. The NSHE’s obligation for actions sounding tort is limited in accordance with the provisions of NRS 41.035 to \$100,000.00 per cause of action.

(*Contracting party*) shall indemnify, defend and hold harmless the NSHE, its officers, employees and agents from and against any and all liabilities, claims, losses, costs or expenses to the person or property of another, lawsuits, judgments and/or expenses, including attorney fees, arising either directly or indirectly from any act of failure to act by (*contracting party*) or any of its officers or employees, which may occur during or which may arise out of the performance of this agreement.”

4. If the contract requires the NSHE to have general liability insurance, language must be added that reflects our coverage under the State of Nevada’s self-insurance program. The language must read as follows:

“The Board of Regents of the Nevada System of Higher Education on behalf of the *institution* is self-insured in accordance with the limitations of NRS 41.0305 to NRS 41.039.”
5. If there is a requirement to add the contractor as an “additional insured,” contact BCN Risk Management at (775) 682-6105, or NSHE Risk Management at (775) 784-3472.
6. Contracts frequently provide that a contract is subject to the law of a particular state. It is NSHE’s policy that if a contract is to be performed in Nevada, the contract must be subject to Nevada law. If a contract is to be performed outside the State of Nevada, NSHE would still prefer that Nevada law apply to the contract, but has no objection if the law of the state where the contract is to be performed is applicable to the contract. It is preferable to eliminate the clause altogether, rather than to agree to have the laws of another state apply to the contract. If necessary, the following language is recommended for choice of law: “The parties agree that the laws of the State of Nevada shall govern the validity, construction, interpretation, and effect of this contract. Any and all disputes arising out of or in connection with the contract shall be litigated only in the Judicial District Court in and for the County of Washoe, State of Nevada, and (*name of contractor*) hereby expressly consents to the jurisdiction of said court.”
7. Vendor Quotes/Proposals: Vendor quotes/proposals usually contain a link to their contractual terms and conditions. A signed quote/proposal is agreement to all of the vendor’s terms. If a vendor insists that their quote/proposal be signed, contact BCN Purchasing. Vendor quotes/proposals may only be signed by BCN Purchasing.
8. No Automatic Renewals: Many contracts contain automatic renewal clauses where unless terminated in writing a certain number of days prior to the anniversary, the contract renews automatically. NSHE cannot agree to these clauses as funding may not be available for future years. Renewal must be only with the written consent of NSHE as evidenced by the issuance of a contract amendment or Purchase Order.
9. Funding Out Clause: Every contract with a term beyond the current budget cycle should have a clause allowing termination without penalties in the event funding for the renewal is not available.
10. If you receive or want to generate a contract through electronic signature processing, this can be processed by the BCN Purchasing Office through DocuSign. In order to process a contract for electronic signature, the contract must have incorporated all of the above mentioned criteria prior to submission.
11. If any of the following criteria apply to the terms of an agreement, the contract will need to be signed by the Chancellor:
 - Exceeds \$1,000,000.00 in total value
 - Is for a term, including extensions, which is greater than five years
 - Is for an unspecified or indefinite (open-ended) term
 - Is for the sale, lease, purchase or easement of NSHE property
 - Requires the Board of Regents approval

If Chancellor’s approval is required, BCN Purchasing will add the correct signature block information and obtain that approval.
15. If a contract does not require the Chancellor’s signature, the signature block should appear as:
For the Board of Regents of the Nevada System of Higher Education on behalf of the *institution*

Ray Moran, Chief Procurement Officer

Date

Thank you for your cooperation in this process. Following the guidelines listed above will help to expedite the processing of contracts and purchase orders. If you have questions regarding this process, please contact BCN Purchasing at: bcnpurchasing@nevada.edu or (775) 784-6552.