

Memorandum

TO: ALICAP

FROM: Rembolt Ludtke LLP
Ann K. Post
Aden J. Davis

RE: Applicability of Public Procurement Requirements

Date: April 10, 2026

ISSUE

Whether Nebraska law requires ALICAP to comply with the same public procurement and competitive bidding requirements as its member schools.

SHORT ANSWER

No, ALICAP is an Intergovernmental Risk Management Pool, and as such acts as a separate legal entity from the school districts that make up its membership. Therefore, ALICAP is not subject to the public procurement requirements of its members.

ANALYSIS

I. Public Procurement in Nebraska

Nebraska requires certain procedures for public agencies to procure goods and services using public funds.¹ Competitive bidding is required for all public agency contracts for services that exceed \$50,000. To satisfy the competitive bidding requirement, public agencies must go through a process of publicly advertising a request for bids and accepting or rejecting bids based on certain criteria.²

In the context of public education, school districts must publicly advertise for bids on contracts for construction, remodeling, or repair of district owned buildings or improvements which have a value in excess of \$100,000, indexed for inflation.³

The first element for public procurement rules to apply is whether the contracting entity is a public agency or school district. If the procurement rules are applicable to the contracting entity, the next issue is whether the funds being used for the contract are “public funds”.

¹ Neb. Rev. Stat. 73-803.

² *Id.* 73-807.

³ *Id.* 73-106. Threshold is \$136,000 as of 2025.

II. Intergovernmental Risk Management Pools

ALICAP is an Intergovernmental Risk Management Pool (“IRMP”) which is a statutory classification distinct from a public entity⁴ or a state agency⁵. An IRMP is formed by two or more public agencies to provide for joint and cooperative action, specifically for the purpose of pooling resources for self-insurance.⁶ As an IRMP ALICAP is not subject to the State Procurement Act.

In addition, ALICAP operates as a separate legal entity from the school districts that comprise its membership. It has the authority to contract, to sue and be sued, and to pledge assets in its own name.⁷ ALICAP’s insurance claim processing is regulated in the same manner as, and in accordance with the guidelines applicable to, a domestic insurance company.⁸ Accordingly, although ALICAP is funded by “public funds” contributed by school districts, once those funds are transferred to ALICAP they are no longer considered “public funds,” and ALICAP’s expenditure of such funds is not subject to public procurement or competitive bidding requirements.

To the extent member school districts are required to pay a deductible in connection with a claim, those payments are best characterized as fulfilling existing contractual obligations to ALICAP and, therefore, do not constitute expenditures subject to new public bidding requirements.

Finally, even if a deductible payment were deemed an expenditure of “public funds,” it would not trigger public procurement or competitive bidding requirements for public school districts if the amount is below the \$100,000 threshold set forth in Neb. Rev. Stat. § 73-106.

CONCLUSION

ALICAP is not subject to Nebraska’s public procurement rules because it is not a public entity or school district. The funds ALICAP receives from its membership are public funds made in order to participate in the IRMP. ALICAP can spend the funds in its insurance pool to accept its members’ claims in the same manner as a domestic insurance company and without the need for competitive bidding.

⁴ *Id.* 44-4301.

⁵ *Id.* 73-803 (11)

⁶ *Id.* 44-4303(5), (10).

⁷ *Id.* 44-4305.

⁸ Neb. Admin. Code, Ch. 47 Section 011.