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Fifty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1091

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

1   A BILL for an Act to amend and reenact section 44-08-01.1 and subsection 4 of section

2   54-44.4-09 of the North Dakota Century Code, relating to bid opening and preference for tie

3   bids.

4   **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5   **SECTION 1. AMENDMENT.** Section 44-08-01.1 of the North Dakota Century Code is

6   amended and reenacted as follows:

7   **44-08-01.1. Bids to be sealed - Designation of time and place for opening -**

8   **Preference for tie bids.** Notwithstanding any other provisions of the North Dakota Century

9   Code, the governing bodies of the political subdivisions of the state of North Dakota shall

10   accept only sealed bids, whenever by law or administrative decision they are required to call

11   for, advertise, or solicit bids for the purchase of personal property and equipment. Whenever a

12   political subdivision of this state calls for, advertises, or solicits sealed bids, it shall designate a

13   time and place for the opening of such bids. If all of the bids are not rejected, the purchase

14   must be made from the bidder submitting the lowest and best bid meeting or exceeding the

15   specifications ~~called for~~ set out in the invitation for bids. In the event that two or more bids

16   contain identical pricing or receive identical evaluation scores, preference must be given to bids

17   submitted by North Dakota vendors.

18   **SECTION 2. AMENDMENT.** Subsection 4 of section 54-44.4-09 of the North Dakota

19   Century Code is amended and reenacted as follows:

20   4.   The procurement officer may authorize receipt of a bid or proposal from a vendor

21   that is not on the list of approved vendors if the procurement officer makes a

22   written determination that it is in the best interest of the state to receive the bid or

23   proposal. The successful bidder or offeror must become approved before the

24   award and the existence of this approval requirement must be stated in the

1   solicitation. If an unapproved vendor is selected for award, the vendor's bid or

2   proposal may be rejected if that vendor fails to become approved within sixty days

3   or within a shorter period as specified in writing by the procurement officer. Before

4   issuing a solicitation, the procurement officer may waive the approval requirement

5   if the procurement officer determines, in consultation with the secretary of state,

6   that registration with the secretary of state and appointment of an agent for service

7   of process in this state are not required. The waiver of the approval requirement

8   must be stated in the solicitation. In the event ~~of a tie bid or proposal, the~~

9   ~~approved vendor must be given~~ <u>that two or more bids contain identical pricing or</u>

10   <u>receive identical evaluation scores,</u> preference <u>must be given pursuant to section</u>

11   <u>44-08-01.1. If the application of section 44-08-01.1 does not result in the award of</u>

12   <u>a contract, preference must be given to bids submitted by vendors approved under</u>

13   <u>this section</u>.