

**Sixty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2025**

SENATE BILL NO. 2130
(Industry and Business Committee)
(At the request of the Adjutant General)

AN ACT to create and enact a new section to chapter 37-10 of the North Dakota Century Code, relating to prequalification, selection, and contracting of architect, engineer, construction management, land surveying services; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-10 of the North Dakota Century Code is created and enacted as follows:

Prequalification, selection, and contracting for consultants - Solicitations.

1. The adjutant general or the adjutant general's designee may prequalify, select, and contract for consultants in the areas of architecture, engineering, construction management, land surveying, and related matters.
 - a. The prequalification of the consultant must be based on detailed information provided to the adjutant general and evaluated using the criteria outlined in subsection 5 of section 54-44.7-03.
 - b. If a consultant meets the prequalification criteria established by the adjutant general, and the consultant agrees to the terms and fee limits established by the adjutant general, the adjutant general or the adjutant general's designee may contract with the consultant for the delivery of an indefinite quantity of services in the area in which the consultant is prequalified. The contract:
 - (1) May not exceed a term of five years, including optional renewal periods; and
 - (2) Must be selected and negotiated in accordance with subsection 7 of section 54-44.7-03.
 - c. The selection of a contracted consultant under this section for the delivery of services for a specific project must be determined according to the criteria listed in subdivisions a through g of subsection 5 of section 54-44.7-03.
2. The adjutant general is not required to comply with subsection 3 of section 54-44.7-03 or section 54-44.7-04 and may procure consultant services for:
 - a. A project for which the estimated state share of consultant costs is no more than two hundred fifty thousand dollars through direct negotiation with a selected prequalified firm, after considering:
 - (1) The nature of the project;
 - (2) The proximity of the consultant services to the project;
 - (3) The capability of the consultant to produce the required services within a reasonable time;
 - (4) The consultant's past performance; and
 - (5) The consultant's ability to meet project budget requirements.

- b. A project for which the estimated state share of consultant costs is greater than two hundred fifty thousand dollars but not more than five hundred thousand dollars after:
 - (1) Following the criteria listed in subdivisions a through g of subsection 5 of section 54-44.7-03;
 - (2) Providing notice of the specific project to all prequalified firms in the specific area of need; and
 - (3) Allowing a minimum of seven calendar days to submit information the firm did not provide in response to the prequalification solicitation and additional information related to the firm's ability to:
 - (a) Perform the services required for the specific project;
 - (b) Produce the required results within the time required for the specific project;
or
 - (c) Meet budget requirements of the specific project.
- c. A project for which the estimated state share of consultant costs is greater than five hundred thousand dollars, after:
 - (1) Notifying all prequalified firms;
 - (2) Allowing the prequalified firms a minimum of twenty-one days to respond; and
 - (3) Following the requirements provided in subsections 4 through 7 of section 54-44.7-03.
- 3. As deemed appropriate by the adjutant general or the adjutant general's designee, if a project for which the estimated state share of consultant costs is less than:
 - a. Two hundred fifty thousand dollars, the adjutant general or the adjutant general's designee may use any of the procurement processes under subsection 2.
 - b. Five hundred thousand dollars, the adjutant general or the adjutant general's designee may use the procurement process under subdivision b or c of subsection 2.
- 4. Notwithstanding any other provision of law, if the adjutant general or the adjutant general's designee solicits consultant services under this section, the adjutant general or the adjutant general's designee may include more than one project in one solicitation. For purposes of a multiple project solicitation, the requirements for the project with the highest dollar threshold under subsection 2 apply to all projects in the multiple project solicitation.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2130 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 86 Nays 4 Absent 4

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2025.

Approved at _____ M. on _____, 2025.

Governor

Filed in this office this _____ day of _____, 2025,

at _____ o'clock _____ M.

Secretary of State