

## STATE FLEET SERVICES - BACKGROUND MEMORANDUM

Section 9 of 2017 Senate Bill No. 2001 ([Appendix A](#)) directs the Legislative Management to study the delivery and cost of the Department of Transportation's (DOT) State Fleet Services for state agencies. The study must include a review of the department's cost of services, staffing, and billing processes and identify improvements to the efficiency and effectiveness of the State Fleet Services that will result in reduced costs for state agencies.

### LEGISLATIVE HISTORY OF STATE FLEET SERVICES

#### 1983

The 1983 Legislative Assembly approved the following:

- Section 1 of Senate Bill No. 2062 created North Dakota Century Code (NDCC) Section 24-02-03.3, which directed DOT to create a central management system for state motor vehicles. The section required every state agency, institution, department, board, bureau, and commission unless exempt by the commissioner to use the system with the exception of the Board of Higher Education and institutions under its jurisdiction. North Dakota Century Code Section 24-02-03.3 also authorized DOT to charge based on actual costs for the services made available and all revenue to be deposited in the state highway fund.
- Section 2 of Senate Bill No. 2062 created a new section to NDCC Chapter 54-44, which directed the Office of Management and Budget (OMB) to adopt motor vehicle size, model, and accessory guidelines with respect to the acquisition of motor vehicles and forbid the purchase of vehicles that did not meet the guidelines.

#### 1987

The 1987 Legislative Assembly approved the following:

- Section 1 of Senate Bill No. 2203 amended NDCC Section 24-02-03.3 to require DOT to document the use and cost of operation of motor vehicles in the central management system. The section authorized the department to advise OMB regarding the acquisition and disposal of vehicles in the system, and authorized the Superintendent of Highway Patrol to set the specifications for highway patrol vehicles. The section removed the authority to charge for services in NDCC Section 24-02-03.3.
- Section 2 of Senate Bill No. 2203 created NDCC Section 24-02-03.4 requiring the transfer of all motor vehicles owned by the state, with the exception of the Board of Higher Education and the institutions under its jurisdiction, to DOT and provided for agencies to receive fair credit for the transfer.
- Section 3 of Senate Bill No. 2203 created NDCC Section 24-02-03.4 requiring each entity using the central vehicle management system to pay user charges, and it authorized DOT to determine the user charges based on actual cost of services provided and depreciation. The section directed the revenue to be deposited in the state highway fund.

#### 1995

The 1995 Legislative Assembly approved the following:

- Sections 1 and 2 of House Bill No. 1493 amended NDCC Sections 24-02-03.3 and 24-02-03.4 to remove the exceptions for the Board of Higher Education and institutions under its jurisdiction from the requirements of participating in the central management system for motor vehicles.
- Sections 3 and 4 of House Bill No. 1493 created NDCC Section 24-02-03.6, which created the Board of Higher Education Fleet Committee. The section directed DOT to adopt rules to meet the special motor vehicle-related needs of the Board of Higher Education, and institutions under its jurisdiction. The Board of Higher Education Fleet Committee was to expire on July 31, 1999.

#### 1999

The 1999 Legislative Assembly approved the following:

- Section 1 of House Bill No. 1128 amended NDCC Section 24-02-03.3 dividing the section into subdivisions and authorized agencies to request, and upon an agreement of that request, DOT to purchase or lease motor vehicle-related equipment which would be included in the central management system. The section also created NDCC Section 24-02-03.3(2) to authorize DOT to enter an agreement with a state employee who has a disability requiring a specially equipped vehicle to pay a mileage rate greater than the rate established in NDCC Section 54-06-09 for the employee's use of the employee's specially equipped motor vehicle while conducting state business. The section also established a calculation to determine the maximum mileage rate allowed.

## 2001

The 2001 Legislative Assembly approved the following:

- Section 1 of House Bill No. 1128 amended NDCC Section 24-02-03.3(2) related to an agreement with a state employee who has a disability requiring a specially equipped vehicle, adjusting the calculation in determining the maximum mileage rate allowed.
- Section 1 of House Bill No. 1147 amended NDCC Section 24-02-03.3(1) to authorize an agency, institution, department, board, bureau, or commission to authorize the use of an employee's personal motor vehicle pursuant to NDCC Section 54-06-09(4).

## STATE FLEET SERVICES

North Dakota Century Code Section 24-02-03.3 requires DOT to operate a central vehicle management system to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state. The section also requires every state agency, institution, department, board, bureau, and commission, unless exempted by Director of DOT, to use the system. Each state agency that utilizes a vehicle from State Fleet Services pays a fee to State Fleet Services for the cost of the vehicle, including operating costs. The fees are based on the estimated costs of acquiring and maintaining the vehicle ([Appendix B](#)). State Fleet Services currently manages approximately 3,500 vehicles with nine full-time equivalent positions and one temporary employee ([Appendix C](#)).

### State Fleet Services Vehicle Acquisitions - State Procurement Authority

The Office of Management and Budget has the authority to operate a centralized purchasing service for printing, commodities, and services pursuant to NDCC Sections 46-01-01, 46-02-01, 54-44-04(18), and 54-44.4-02. The Office of Management and Budget State Procurement Office is responsible for this duty.

Procurement is the process of purchasing, renting, leasing, or otherwise acquiring commodities and services; this includes preparing specifications and solicitations, evaluating bids and proposals, awarding a contract, and contract administration pursuant to North Dakota Administrative Code (NDAC) Chapter 4-12. The terms "procurement" and "purchasing" are used interchangeably.

North Dakota Century Code Section 54-44.4-01 provides that each state agency and institution obtain necessary commodities and services at a competitive cost, consistent with quality, time, and performance requirements with fair and equal opportunity to all persons qualified to sell to the state.

### Procurement Process

The State Procurement Office makes purchases on behalf of state agencies that submit a purchasing request. State Fleet Services posts invitations to bid through the State Procurement Office, which is sent to all bidders on the state bidders list. Included in the invitation to bid are vehicle specifications that need to be met by the bidder. Vehicle bids are received and reviewed by the State Procurement Office. A contract is then issued to the successful bidder. Multiple vendors may be awarded contracts based on the delivery location for the vehicles.

### Bidder Preference

North Dakota has a very broad preference statute that applies to OMB, any other state entity, and political subdivisions when purchasing any goods; supplies; equipment; contracts to build or repair any building, structure, road or other real property; and professional services pursuant to NDCC Section 44-08-01.

This law requires that the preference given to a resident North Dakota bidder be equal to the preference given or required by the state of the out-of-state or nonresident bidder. This type of preference statute is commonly called a "reciprocal preference."

The reciprocal preference statute must be applied when evaluating the cost of bids or proposals received from nonresident bidders. A "resident" North Dakota bidder, offeror, seller, or contractor is one who has maintained a bona fide place of business within North Dakota for at least 1 year prior to the date on which a contract was awarded pursuant to NDCC Section 44-08-02.

When bids or proposals are received from a nonresident bidder, the procurement officer must determine whether the bidder's state of residence has a preference statute for vendors in that state.

No reciprocal preference is applied to a nonresident bidder whose state of residence has no preference statute or only a reciprocal preference statute. If all bidders are nonresidents, no reciprocal preference is applied.

If the bidder's state of residence has a preference for bidders in that state, then the nonresident bidder's price will be increased by the same percentage of preference. For example, if a bid is received from a nonresident bidder, the statutes of that bidder's state of residency provide a 5 percent preference for vendors resident in that state. So, the North Dakota procurement officer must increase that bidder's bid price by 5 percent before evaluating it.

After applying any reciprocal preference, if a tie occurs between two or more bidders with equal bid prices or offerors with identical evaluation scores:

- Preference must first be given to bids submitted by North Dakota vendors pursuant to NDCC Section 44-08-01.1.
- If a tie remains, preference must be given to approved vendors on the state bidders list pursuant to NDCC Section 54-44.4-09(4).
- If a tie still remains, award shall be made in accordance with NDAC Section 4-12-11-05, which provides that if the solicitation specified delivery as soon as possible, the bid or proposal with the earliest delivery time will be accepted or else a split award may be made or award will be made through a random drawing.

### **State Fleet Services Rates and Vehicle Assignments**

State Fleet Services offers a daily rate or a rate for assigned vehicles depending on an agency's needs. The daily rate is determined by adding the operating rate plus the depreciation rate plus the replacement rate and multiplying the sum times the number of miles traveled or estimated to be traveled. The assigned vehicle rate is calculated by adding the operating rate plus the replacement rate and multiplying the sum times the number of miles traveled per month or estimated to be traveled per month and adding the monthly depreciation cost. State Fleet Services rates can change if determined necessary by DOT, specifically if fuel costs have fluctuated significantly. Agencies can either be assigned a vehicle or utilize them on an as-needed basis.

### **Vehicle Auctions**

As vehicles age, DOT sells the State Fleet Services vehicles at auctions held in Bismarck and Fargo throughout the year. The proceeds of the sales are deposited in the State Fleet Services fund.

### **MILEAGE REIMBURSEMENT**

North Dakota Century Code Section 54-06-09 requires state officers and employees to use State Fleet Services, but a state officer or employee may be paid for mileage for personal use of a vehicle if approved by their supervisor. The personal use reimbursement rate for mileage is based on the federal standard mileage rate and is currently 53.5 cents per mile.

### **AGENCY BUDGET PROCESS - STATE FLEET**

Agency state fleet expenditure budgets are based on DOT's estimate of state fleet rates for the upcoming biennium and its intended use of the motor vehicles either assigned to it or any expected daily use estimates. Before agencies begin developing its budget in March or April of each even-numbered year, DOT publishes its estimated rates for the next biennium. The agency uses these rates to determine its state fleet budget for the upcoming biennium. Subsequently, OMB reviews and may choose to change the budgeted amounts in preparation of the executive budget released in December prior to the legislative session. The Appropriations Committees of the Legislative Assembly also reviews these budgets and may make adjustments as it develops the agency's budget for the upcoming biennium.

### **PROPOSED STUDY PLAN**

The following is a proposed study plan for the committee's consideration:

1. Receive information from DOT regarding the history of State Fleet Services, to include a 10-year history of fees compared to the cost of services, staffing, and its billing processes.
2. Review the operation and the fees of other State Fleet Services to the operation and fees of DOT's State Fleet Services.
3. Receive information from select state agencies regarding its history of State Fleet Services costs.
4. Develop recommendations and any necessary legislation to implement.
5. Prepare a final report.