



STATE PROCUREMENT OFFICE

CENTRAL SERVICES DIVISION

A Division of the
Office of Management
and Budget

March 15, 2012

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505 0360

Dear Mr. Walstad:

The Notice of Intent to adopt and amend Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Sincerely,

A handwritten signature in blue ink that reads "Sherry Neas".

Sherry Neas, Director
Central Services Division

Enclosures

NOTICE OF INTENT TO
ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the ND Office of Management and Budget Central Services Division (CSD) will hold a public hearing to address proposed new sections and amendments to N.D. Admin. Code § 4-12-09 at 1:00PM on Tuesday, April 24, 2012, in the Missouri River Room, Ground Floor of the Capitol. Written and oral comments will be accepted at the hearing.

The proposed rules will reflect changes to N.D.C.C. ch. 25-16.2. The ND Office of Management and Budget will be adopting and amending rules of the Division related to the following chapters of N.D. Admin. Code § 4-12-09.

- N.D. Admin. Code § 4-12-09-01 Competition may be waived or limited
 - The rule change of N.D. Admin. Code § 4-12-09-01(1) is intended to clarify the reference to subsection 2 of North Dakota Century Code section 54-44.4-05 by moving the reference up from N.D. Admin. Code § 4-12-09-01(3).
 - The rule change of N.D. Admin. Code § 4-12-09-01(3) is intended to clarify the language used.
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(d) is intended to replace a list of medical specialist types with the term "medical specialists."
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(e) is intended to remove references to specific types of subscriptions and to update the rule by adding "copy-righted printed and electronic works" and "pre-recorded audio and video materials, when only available from the publisher or producer."
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(f) is intended to remove the rule and consolidate it with N.D. Admin. Code § 4-12-09-01(3)(e).
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(l) is intended to clarify services and commodities restricted to vocational rehabilitation in any agency rather than restricted to the department of human services.
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(m) is intended to remove the "and" to allow for additional clauses "o" and "p".
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(n) is intended to add medical devices to the list of items as prescribed by health care professionals for patients of a state facility or clients of a state program.
 - The rule change of N.D. Admin. Code § 4-12-09-01(3)(o) is intended to move and expand the list from N.D. Admin. Code § 4-12-09-02(1)(b) to include heating fuels, ready mix cement, sand, gravel, road oil, and bituminous mix which can be procured using limited competition to bidders or offerors within a specific geographic area.

- The rule change of N.D. Admin. Code § 4-12-09-01(3)(p) is intended to add contracts for insurance placed through a broker or agent when the broker or agent was hired through a competitive or limited competitive process.
- N.D. Admin. Code § 4-12-09-02 Limited competitive procurements
 - The rule change of N.D. Admin. Code § 4-12-09-02(1)(b) is intended to remove references to specific types of commodities or services provided by bidders or offerors within a specific geographic area and consolidate it with N.D. Admin. Code § 4-12-09-01(3)(o).
 - The rule change of N.D. Admin. Code § 4-12-09-02(2) is intended to move the reference to maintaining a written determination to 4-12-09-02(6) for the correct sequence of events. This rule change is also intended to correct “must” to “shall”.
 - The rule change of N.D. Admin. Code § 4-12-09-02(3) is intended to correct “will” to “shall” and to correct “noncompetitive” to instead say “limited competitive,” which pertains to this section.
 - The rule change of N.D. Admin. Code § 4-12-09-02(4) is intended to correct “state procurement manager or designee” to “state procurement office”.
 - The rule change of N.D. Admin. Code § 4-12-09-02(5) is intended to remove reference to issuing a notice of intent to make a limited competitive purchase and consolidate it with N.D. Admin. Code § 4-12-09-05.
 - The rule change of N.D. Admin. Code § 4-12-09-02(6) is intended to add reference to maintaining a written determination from 4-12-09-02(2) for the correct sequence of events.
- N.D. Admin. Code § 4-12-09-03 Noncompetitive procurements
 - The rule change of N.D. Admin. Code § 4-12-09-03(3) is intended to remove the reference to maintaining a written determination in the procurement file, because it is redundant to 4-12-09-03(7). This rule change is also intended to correct “must” to “shall”.
 - The rule change of N.D. Admin. Code § 4-12-09-03(4) is intended to correct “will” to “shall”.
 - The rule change of N.D. Admin. Code § 4-12-09-03(5) is intended to correct “state procurement manager or designee” to “state procurement office”.
 - The rule change of N.D. Admin. Code § 4-12-09-03(6) is intended to remove reference to issuing a notice of intent to make a noncompetitive award and consolidate it with N.D. Admin. Code § 4-12-09-05.
- N.D. Admin. Code § 4-12-09-04 Emergency procurements

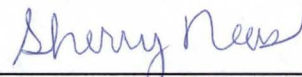
- The rule change of N.D. Admin. Code § 4-12-09-04(1) is intended to clarify reference to a determination to limit or waive competition.
- The rule change of N.D. Admin. Code § 4-12-09-04(2) is intended to correct “shall” to “must”.
- The rule change of N.D. Admin. Code § 4-12-09-04(4) is intended to correct “must” to “shall”.
- The rule change of N.D. Admin. Code § 4-12-09-04(5) is intended to correct “must” to “shall”.
- N.D. Admin. Code § 4-12-09-05 Notice of intent to make a limited competitive or noncompetitive purchase
 - The rule creation of N.D. Admin. Code § 4-12-09-05 is intended move and expand references to issuing a notice of intent to make a limited competitive or noncompetitive purchase from N.D. Admin. Code § 4-12-09-02(5) and from N.D. Admin. Code § 4-12-09-03(6).
- N.D. Admin. Code § 4-12-09-06 Work activity center contract awards
 - N.D. Admin. Code § 4-12-09-06 is intended to define a process for implementing the new law included in N.D.C.C. ch. 25-16.2. SB2265 modified N.D.C.C. ch. 25-16.2, the law regulating work activity center contract awards. It added an updated definition of “work activity center,” a purpose statement, and a section related to non-competitive purchases from work activity centers.

The proposed amendment is not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the State Procurement Office, Office of Management and Budget, State Capitol, 600 E. Boulevard Avenue, 14th floor, Bismarck, North Dakota. A copy of the proposed rules and/or a regulatory analysis may be requested by writing the above address or calling 701.328.2683. Written or oral comments on the proposed rules sent to State Procurement Office, Office of Management and Budget, 600 East Boulevard Ave., Dept. 012, Bismarck, ND 58505-0310 or e-mailed to infospo@nd.gov and received by May 7, 2012, will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the CSD at the above telephone number or address at least five (5) days prior to the public hearing.

Dated this 15th day of March 2012.



Sherry Neas, Director
Central Services Division