

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1341
(Representatives Kasper, Dosch, Grande, Headland, Klein, Skarphol)

AN ACT to amend and reenact subsection 2 of section 54-44.4-05 and subsection 1 of section 54-44.4-09 of the North Dakota Century Code, relating to purchasing contracts and approved vendors for state commodities and services contracts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 54-44.4-05 of the North Dakota Century Code is amended and reenacted as follows:

2. The office of management and budget shall adopt rules specifying the circumstances under which competition may be waived or limited, when negotiation may be used, and specifying the required justifications and procedures for using those methods of purchasing. The office of management and budget shall adopt rules related to sending notice of intent to make limited competitive, noncompetitive, and negotiated purchases in accordance with this chapter. The notice must describe the needed commodity or service and the intended procurement method and must state that vendors are permitted to submit bids or proposals for contracts to be awarded under this section. The circumstances that may permit limited competitive, noncompetitive, or negotiated purchases include:
 - a. The commodity or service is available from only one source.
 - b. The commodity or service is available from another governmental entity's contract.
 - c. The commodity or service is to be purchased for experimentation or trial.
 - d. No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process.
 - e. Commodities are being purchased for over-the-counter resale.
 - f. Acceptable commodities or services are produced or provided by correctional institutions or other government agencies.
 - g. The anticipated cost of purchasing specified commodities or services is less than an amount determined by the office of management and budget which would justify the expense of a competitive bidding or competitive proposal process.
 - h. A used commodity is advantageous to the state and the commodity is available only on short notice.
 - i. The commodity is a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer.
 - j. Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment.
 - k. The agency provides documentation indicating that the services or the circumstances are of such a nature that deviation from the procurement procedure is appropriate.

SECTION 2. AMENDMENT. Subsection 1 of section 54-44.4-09 of the North Dakota Century Code is amended and reenacted as follows:

1. The office of management and budget shall establish and maintain current lists of persons that desire to provide commodities or services to the state. Every person that desires to bid or submit a proposal on contracts for commodities or services awarded under this chapter must be an approved vendor in order to be placed on the bidders list. The office of management and budget or the purchasing agency shall use the list when issuing invitation for bids or request for proposals over the amount established for small purchases, except as otherwise provided in this section. The office of management and budget or the purchasing agency shall use the list when sending notice of intent to make cooperative, limited competitive, noncompetitive, and negotiated purchases.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1341.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State