

Central Services
A Division of the Office of Management and Budget

Regulatory Analysis, Small Entity Regulatory Analysis, Economic Impact Statement,
and Takings Assessment
on Proposed Administrative Rules North Dakota Administrative Code Chapter 4-12-09
Limited Competition, Noncompetitive, and Emergency Procurements

March 15, 2012

PURPOSE

In accordance with N.D.C.C. §§ 28-32-08 and 28-32-08.1, this is a regulatory analysis, small business regulatory analysis, economic impact statement, and takings assessment regarding the effect of proposed administrative rules on the regulated community.

REGULATORY ANALYSIS - N.D.C.C. § 28-32-08

No regulatory analysis is required as the proposed rules are not expected to have an impact on the regulated community in excess of \$50,000 and neither the Governor nor any member of the Legislative Assembly requested a regulatory analysis.

SMALL ENTITY REGULATORY ANALYSIS - N.D.C.C. § 28-32-08.1(2)

Central Services prepared the following Small Entity Regulatory Analysis before adopting proposed rules.

a. Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?

The proposed rules do not impose additional compliance or reporting requirements on small entities. Therefore, less stringent compliance or reporting requirements are not necessary and were not considered.

b. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?

The proposed rules do not impose additional compliance or reporting requirements on small entities. There are no schedules or deadlines for compliance or reporting.

c. Was consolidation or simplification of compliance or reporting requirements for small entities considered? To what result?

Consolidation or simplification of compliance or reporting requirements was not considered because the proposed rules do not impose additional compliance or reporting requirements on small entities.

d. Were performance standards established for small entities for replacement design or operational standards required by proposed rules? To what result?

The proposed rules do not impose performance standards on small entities.

e. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? To what result?

As stated in NDCC 25-16.2-04, "If acceptable commodities or services are produced or provided by a work activity center at fair market price, any state entity or political subdivision may enter a contract to purchase directly from the work activity center without obtaining competition." As used in NDCC 25-16.2-01, "work activity center" means a facility, licensed by the department of human services, which is located in the state and operated by a nonprofit corporation organized for the primary purpose of employing and providing rehabilitative activities for individuals with physical disabilities, developmental disabilities, or chronic mental illnesses.

ECONOMIC IMPACT STATEMENT – N.D.C.C. § 28-32-08.1(3)

Central Services prepared the following Economic Impact Statement before adopting proposed rules.

- a. What is the adverse impact on small entities, in consideration of the small entities subject to the proposed rule?**

The proposed rules do not impose adverse impact on small entities.

- b. What is the adverse impact on small entities, in consideration of the administrative and other costs required for compliance with the proposed rule?**

No administrative or other costs are required for compliance as the result of the proposed rules.

- c. What is the adverse impact on small entities, in consideration of the probable cost and benefit to private persons and consumers who are affected by the proposed rule?**

The proposed rules do not impose an adverse impact on small entities. This law and proposed rules are intended to benefit individuals with disabilities. The purpose of the new law is stated in NDCC 25-16.2-01.1, "It is in the public interest to advance employment opportunities to individuals with disabilities so that those individuals may acquire job skills and training and gain greater independence and quality of life. This state is committed to promoting self-sufficiency, integrating individuals with disabilities into our communities, and maximizing the earning potential of individuals with disabilities."

- d. What is the probable effect of the proposed rule on state revenues?**

The proposed rules will not have an effect on state revenues.

- e. What are any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule?**

The proposed rules require a determination that goods and services directly purchased are reasonably priced.

As stated in NDCC 25-16.2-04, state entities or political subdivisions *may* enter a contract to purchase directly from the work activity center without obtaining competition; however, they are not required to do so and they may still opt to go through a competitive process.

TAKING ASSESSMENT – N.D.C.C. § 28-32-09

Taking assessment was not required because the rules do not limit the uses of private real property.