

Testimony
NDAC 4-12-09

Presented by: Sherry Neas, Director
OMB, Central Services Division

Before: Administrative Rules Committee
Representative Kim Koppelman, Chairman

Date: December 12, 2012

Chairman Koppelman and members of the committee, my name is Sherry Neas. I am the Director of the Office of Management and Budget, Central Services Division.

During Christy Smith's testimony on September 13, 2012, regarding October 2012 rules of the Office of Management and Budget, further explanation and assurance that no North Dakota business would be disadvantaged by the rules proposed in NDAC 4-12-09 (3)(o) and (p) were requested.

4-12-09-01. Competition may be waived or limited.

3. ~~Circumstances under which a deviation from procurement procedures to limit or waive competition and procure through negotiations is appropriate pursuant to subsection 2 of North Dakota Century Code section 54-44.4-05;~~ competition may be waived or limited without a written determination; include:

o. Purchase of 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; and

p. Contracts for insurance placed through an independent broker, agent, or contractor when the independent broker, agent, or contractor was hired through a competitive or limited competitive process.

Regarding NDAC 4-12-09 (3)(o) moves and expands 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. A limited competitive process will continued to be maintained; however, the only difference is that a written determination will not be required.

Regarding NDAC 4-12-09 (3)(p), this new language addresses the procurement of insurance through an insurance broker. Rather than bidding for a particular insurance product, the state does a competitive process to select the insurance broker. The broker uses their professional expertise to analyze available insurance products and determines what product is best for the State. The new rule (p) allows the practice of selecting an insurance product without a written determination.

This concludes my testimony. I will be happy to answer any questions you may have.

Version 1 – Geographic

Chapter 4-12-09

Limited Competition, Noncompetitive, and Emergency Procurements

3. Circumstances under which a competition may be waived or limited without a written determination include:

~~o. Purchase of 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; and~~

o. Conducting a limited competitive process for the purchase of heating fuels, ready-mix cement, sand, gravel, road oil, and bituminous using the level of competition practicable from vendors within a reasonable, specific geographic area.

Version 1 - Insurance

Chapter 4-12-09

Limited Competition, Noncompetitive, and Emergency Procurements

3. Circumstances under which a competition may be waived or limited without a written determination include:

~~p. Contracts for insurance placed through an independent broker, agent, or contractor when the independent broker, agent, or contractor was hired through a competitive or limited competitive process.~~

p. Contracts for insurance placed through a broker hired through a competitive or limited competitive process where the broker is hired to evaluate insurance pricing and coverage information from insurance carriers and make recommendations for placement of insurance.

Version 2 - Insurance

Chapter 4-12-09

Limited Competition, Noncompetitive, and Emergency Procurements

3. Circumstances under which a competition may be waived or limited without a written determination include:

~~p. — Contracts for insurance placed through an independent broker, agent, or contractor when the independent broker, agent, or contractor was hired through a competitive or limited competitive process.~~

p. Conducting a limited competitive process for the purchase of insurance through a broker hired using a competitive or limited competitive process to evaluate insurance pricing and coverage information from insurance carriers and make recommendations for placement of insurance.

Version 3 - Insurance

Chapter 4-12-09

Limited Competition, Noncompetitive, and Emergency Procurements

3. Circumstances under which a competition may be waived or limited without a written determination include:

~~p. Contracts for insurance placed through an independent broker, agent, or contractor when the independent broker, agent, or contractor was hired through a competitive or limited competitive process.~~

p. Contracts for insurance placed through a broker hired using a competitive or limited competitive process where the broker is hired to evaluate insurance pricing and coverage information from insurance carriers and make recommendations for placement of insurance, when the purchase of the insurance product through a direct formal competitive process is not reasonably practicable.