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OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

1377

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1377

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1377

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2/4/05

Tape Number	Side A	Side B	Meter #
1	x		0-25.1
Committee Clerk Signature			

Minutes: HB Relating to disclosure of whether work on state contracts will be performed within the United States; and to amend and reenact section 44-08-01 of the North Dakota Century Code, relating to bidding preferences.

11 members present, 3 absent.

Rep. Pam Gulleson-District 26-for-Attached Testimony

Rep. Boehning: Can you explain what is happening to our contracts now and why they are going over seas.

Rep. Gulleson: We do have the capabilities of providing services. In many cases the outsourcing is a subcontract that takes place after the initial contract. That was the case here in North Dakota with Human Services contract, regarding the food stamp program. I don't believe the initial intent was to send that work abroad, but the reality is that the subcontracting company ended up moving those call centers to India. I think it caught everyone by surprise. This bill simply states that on the finance, full disclosure and then if they do change the direction the

contract is going, once they have secured it, this bill provides that they have to perform the contract. It puts us in a position to know. Knowledge is always a good thing.

Joel Jorgenson-Fargo-For-Testimony Attached

Chris Runge-AFLCIO-For

Linda Belisle-Director of the Central Services Division of OMB-For-Testimony Attached

Chairman Haas: How would you change the specifications when you call for bids to provide for this provision?

Linda: I would anticipate in the bid document that we would just need to add one statement that requires disclosure, so it would be a requirement in the response from the bidders.

Chairman Haas: Would the specks for the bid have to have something in it about the possibility that it is the contractor decides to out source any level of services, **that** the contract could be canceled?

Linda: I would anticipate that would revise these documents **the templates** that are posted, they are fill in the blanks and they are very detailed with instructions. We have a good working document and just have to add a few more provisions.

Chairman Haas: One of those provisions is that the contractor would know up front, that if they decided to out source something outside of the country, that the potential would be there for the agency to cancel there contract.

Linda: That is correct.

Chairman Haas: Did you have any conversations with the Attorney Generals office concerning how this fits into normal contract law.

Linda: No I did not do that.

Rep. Klemin: Encouraging work to be done in North Dakota, **this bill** doesn't really address that from what I can see. Wouldn't we want to know if they are going to move that work out of North Dakota to some other state?

Linda: I really can't answer that, because I really don't know what the intent of the bill sponsors were regarding that particular issue. We don't want to put a preference in for North Dakota bidders, because if the North Dakota bidders, bid outside North Dakota on projects there are going to have a preference and an amount of money attached to there bid.

Rep. Gulleason: It does indeed specify that we acknowledge that we have disclosure of the work that is done. I think it is very much in our best interest to know if our work is being sent over seas. That gets to the heart of it. Interstate commerce, we have service that we can provide to other states, it comes and goes and in turn they have services that they can provide for us. I think the interest of the State of North Dakota in this bill is that we want to know if we are sending our tax payer dollars over seas to pay for services that can be done here. Not just in North Dakota, but in the United States of America.

Chairman Haas: If you write a set of bid specifications that say , first of all they have to disclose whether they are going to do any out sourcing beyond the borders of the United States and then lets say they get the bid, then there is no problem, obviously, then they say they are going to do the work inside the United States and then after they have the contract, then they make the determination that they are going to have to out source this and the bid specification says that if you are awarded this bid and if you out source outside the continental United States there is a chance that the agency that you contracted will terminate your contract, do you think

that is going to limit the number of firms that might bid on contracts that the state is trying to award and drive up the cost of the government.

Rep. Gulleson: I don't believe so, I believe that there are a lot of companies that are capable of doing the work. What it does do is make the bidding process more fair, because with the disclosure part you can't put in a lower bid, depending on the fact, with the intent of sending subcontracting part of that work over to a nation where you can buy the services at a much lower cost and then come in with a lower bid and then compete with a North Dakota company who then recognizing they are going to use North Dakota or an American company. What it does is put everyone on the same playing field, because if they can't use the lower cost labor ends up driving there bids just a little bit higher, then it puts in on the same plane as all of the other companies and remember we are not saying that you are mandated to go with a North Dakota or American company, what we are saying is that they have to disclose it and then you can look at those bids and then you can make the decision.

Chairman Haas: Thank you very much Rep. Gulleson. Any more questions on HB 1377.

The hearing will be closed on HB 1377.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1377

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
1	x		0-25.9
Committee Clerk Signature <i>[Handwritten Signature]</i>			

Minutes: HB 1377 Relating to disclosure of whether work on state contracts will be performed within the United States; and to amend and reenact 44-08-01 of the North Dakota Century Code, relating to bidding preferences.

14 members present, 0 absent.

Chairman Haas: Opens the meeting for discussion on HB 1377. We have an amendment from Rep. Gulleson that is dated January 31st and this amendment was worked on with OMB and gives a little more detail on it. We also had requested information from Linda Belisle on exactly how much the state spends outside the United States right now. She put together a summary for us, which you have a copy of, by your desk this morning and the only thing on here that is little disturbing and actually makes it more important that we do this bill, if you look down her letter, this piece of paper that you all received this morning. The Department of Human Services, when they contacted JP Morgan, JP Morgan would not share that information, so it just reinforces, I

think, I don't know how you folks feel about it, it seems to me that reinforces the need for the bill. To just summarize what the bill will do:

Number 1: When OMB is writing specs for service contracts, this provision will be included in the transportation, that the bidder, at the time they submit their bid must indicate whether or not any of the service contract will be done outside the continental United States.

Number 2: It will also have the requirement in that if during the duration of the contract, the service provided who is a successful bidder, if they intend anytime during the duration of the contract put any work outside the continental United States, they would have to inform the agency, with whom that contract is and that agency would have the option of either saying yes this OK or if it is not OK and if the company refuses to comply with the wishes of the agency, they could terminate the contract.

Rep. Boehning: I have a question page 2, line 1, in the definition where it begins with contracts, what does substantially abusive mean.

Chairman Haas: In the bidding process, particularly on service contracts, where you can't write hard and fast specifications like you can in construction contract, there has to be a judgment made as to whether or not bids are substantially equal with regards to the services that are going to be provided. That is a judgment call, on the part of the agency that is doing the bid. Maybe Rep. Klemin can explain that a little better with his legal background, but as far as I know, that is what it means.

Rep. Klemin: That sounds good to me.

Rep. Boehning: If it is substantially equal and if they are looking for a specific thing, if the prices are the same, if they are substantially equal.

Chairman Haas: This is a service contract, so there might be different methods of technology with providing the service, but the agency that is calling for the bid has to make the judgment on whether or not they determine whether the bids are substantially equal.

Rep. Klemin: The thing that bothers me about all of this is the nothing that says that we have the right to decline to enter into a contract at the lowest bid, if they are from India or one of those other countries. These places have been getting very aggressive and they are going to be the lowest bid a lot of times. Legal services, to give you a couple of examples: there are some law firms in India that are becoming very aggressive in trying to get legal work in the United States, to be done in India. Less Law is probably the major Internet research service that you can get. They have been talking for a while now, moving there people to India.

Chairman Haas: We still have time, if you would want to get an additional amendment, we could deal with this tomorrow morning.

Rep. Klemin: That is the thing is, I don't see anywhere the right to reject it a contract from India, because it is going to be the low bid. You can't do legal services for \$20.00 an hour, like they do there. That is just an example.

Chairman Haas: I think we have two options, if that is a concern of the committee. If you would want to explore that with the Legislative Council and get another amendment by tomorrow morning or we could send this bill out with this amendment, with the understanding and then we could visit with Senator Krebsbach and express our concerns and try and do something over there.

Rep. Klemin: I can try and get something, we are spending are tax dollars and I think we need do something.

Rep. Potter: It seems like to me when Rep. Gulleson was being questioned, that there was a question as to whether we would be taking the lowest bid on some of the bids. Part of there work would be done outside the United States and they were the lowest bid, would that make it to where they may not be chosen as the lowest bid and thought the answer was yes that was so, with this, now maybe that is what I understood from that.

Rep. Klemin: I think I understood her answer to be that we couldn't prevent it from going outside the United States in that case and we took it, all this would do would tell us we are going out of the United States, so we know it up front and there is not a lot we can do about it. We don't require a North Dakota vendor to notify us that they are moving out of North Dakota, so we have a contract with a North Dakota vendor and they move to another state, there is no requirement for them.

Rep. Grande: I think we are walking a pretty fine line here of saying that we only want to show preference to American contractors, even if they are three times as high.

Rep. Klemin: Take the example of the legal services, you can't do legal services for \$60.00 an hour in this country, but you can do it for \$20.00 in India, that is three times as high.

Rep. Grande: I think it would be wrong to have the tax payers pay an extra \$100.00 an hour just because they are in the United States.

Rep. Klemin: Then we might as well all quit working, they have a lot more people over there.

Rep. Galvin: If you tried to restrict this to state borders, wouldn't you be running into that interstate commerce thing again.

Rep. Klemin: I think trying we are trying to restrict it to the United States borders

Rep. Galvin: You said outside the states.

Rep. Klemin: That was the other bill and they got preference here in North Dakota, because they are from North Dakota and they got the contract and moved to California.

Rep. Sitte: I do sympathize with what Rep. Klemin is saying, I know that one of my daughters roommates at NDSU did an internship in accounting and all of the accountants were very upset because they were training all of them in India, I would agree with this whenever possible we want the DOT to keep hiring young engineers and employing young people in North Dakota. We want attorneys to be hiring in North Dakota, if at all possible. We might not be able to stem this tide forever, for as long as we can lets try to maintain jobs in the United States.

Chairman Haas: Rep. Klemin will explore an additional amendment. We are going to move on at this time and come back to this bill.

Hearing closed on HB 1377.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1377

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2/10/05

Tape Number	Side A	Side B	Meter #
5	x		20.1-end
Committee Clerk Signature <i>Dale H. Grier</i>			

Minutes: HB 1377 Relating to disclosure of whether work on state contracts will be performed within the United States; and to amend and reenact section 44-08-01 of the ND Century Code, relating to bidding preferences.

Chairman Haas : We are reopening HB 1377. Rep. Klemin will you proceed. This is not replacing Rep. Gulleasons amendment, but in addition to.

Rep. Klemin: What the intention was is to give OMB the ability to reject bids for services to be performed outside the United States, if it would be in the best interests of the State of North Dakota to do that. For example, what if North Korea submitted the lowest bid and it maybe not in our best interest to spending tax dollars on services performed outside the United States, if we don't want to do that. The intention is to be able to exercise discretion to accept or reject a bid under those circumstances. They would be no longer required to accept that kind of bid.

Rep. Grande: With that does it also give them a discretion to do so, but does it also give them the discretion if that happens to be the best way to go for the state they can still do so?

Rep. Klemin: They would have the discretion to reject that bid for services outside the United States if it appears to be in the best interest of the state. They would have to make the decision that it would be in the best interest of the state to accept it. It gives them the ability to reject or accept it, right now they could only accept it if it was the lowest bid.

Chairman Haas: If we read the changes on page 1, starting on page 21 and page 2.

Rep. Klemin: I think what we are trying to do here is avoid a situation where we have got something going to Bangladesh which is going to be a big embarrassment to us, but we have to accept it because it is the lowest bid. Mr. Chairman can we ask them to put these two amendments together?

Chairman Haas: That is exactly what we are going to do. We will adjourn for 30 minutes to allow Rep. Klemin to take care of these two amendments.

Chairman Haas: Committee lets come back to order please. You should have amendments now on HB 1377 and Rep. Klemin review them. We are still working Rep. Gulleasons amendment and Rep. Klemins amendment. On the amendment that Luke handed to you it should say lines 19 through 27 with the language from Rep. Gulleasons amendment guarding with state contracts and ending with if two or more etc.

Rep. Klemin: The amendment should be Rep. Gulleasons amendment and then my amendment.

Chairman Haas: Is there a motion to amend the bill with Rep. Gulleasons amendment? Motion made my Rep. Meier, to attach Rep. Gulleasons amendment and modify, is there a second,

seconded by Rep. Sitte. Is there a discussion. All in favor say I, all oppose say no. Amendment is carried.

Rep. Klemin: I move the additional amendment and paragraph 4 at the end of Rep. Gulleasons amendment.

Rep. Grande: I second the motion.

Chairman Haas: Seconded by Rep. Grande, any discussion. All in favor by signifying I.

Oppose say no. Amendment is carried. Is there any questions on the verbatim nature of the amended bill. Any further discussion.

Rep. Klemin: I move a Do Pass on HB 1377 as Amended.

Rep. Meier: I second the motion.

Rep. Kasper: On the second line of number 4, we say shall reject, shouldn't we say may reject, so that it is even more subjective.

Chairman Haas: Rep. Kasper do you want to move that further amendment.

Rep. Kasper: Yes I would Mr. Chairman.

Rep. Sitte: I second the motion.

Chairman Haas: We are going to substitute may for shall on number 4. Any discussion. All in favor of the amendment by saying I, all oppose say no. Amendment carried. Now we will have a motion on vote as amended three times.

Rep. Klemin: I move a DO PASS as Amended.

Chairman Haas: Rep. Klemin moves a DO PASS as Amended, Rep. Meier seconds the motion, is there any further discussion. The clerk will take the roll on a DO PASS as

AMENDED on HB 1377.

Page 4

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1377

Hearing Date 2/10/05

VOTE: YES 9 NO 5 ABSENT 0 DO PASS AS AMENDED ON HB 1377

REP. KLEMIN WILL CARRY THE BILL.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1377

Page 1, line 3, replace "; and to amend and reenact section 44-08-01 of the North Dakota Century", with a period

Page 1, remove line 4

Page 1, remove lines 6 through 23

Page 2, remove lines 1 through 16

Page 2, replace lines 19 through 27 with:

"State contracts - Performance of work outside the United States - Notice - Preference.

1. A vendor submitting a bid or proposal to provide services for a state agency, department, or institution shall include a statement in the bid or proposal indicating whether the services covered by the bid or proposal will be performed in the United States.
2. If, during the term of a contract with a state agency, department, or institution, a contractor or subcontractor intends to transfer work under the contract outside the United States, the contractor or subcontractor shall provide written notice to the agency, department, or institution within ninety days before the intended transfer or within such time as specified by the contract that the work is being transferred outside the United States. The notice must include a summary of the work that will be performed outside the United States and a disclosure of the location where the work will be performed. The contracting agency, department, or institution shall respond in writing within thirty days of the receipt of the notice of intent to transfer the work, stating its approval or disapproval of the intended transfer. If the contracting agency, department, or institution does not approve the request to allow the transfer, the agency, department, or institution may terminate the contract.
3. If two or more bids or proposals are received that are substantially equal, the office of management and budget or any other state agency, department, or institution authorized to accept bids for any service shall give preference to a bidder that indicates that the work will be performed in the United States."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1377

Page 1, line 4, replace "bidding preferences" with "rejection of bids"

Page 1, line 9, replace "**Preference for services**" with "**Services**"

Page 1, line 22, replace "give preference to" with "reject the bid of"

Page 1, line 23, replace "in" with "outside" and replace "two or more bidders submit" with "it appears to be in the best interest of the state to have"

Page 2, remove line 1

Page 2, line 2, remove "will be" and replace "outside" with "within"

Renumber accordingly

February 11, 2005

**House Amendments to HB 1377 - Government and Veterans Affairs Committee
02/14/2005**

Page 1, line 3, replace "; and to amend and reenact section 44-08-01 of the North Dakota Century" with "and rejection of bids."

Page 1, remove line 4

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**House Amendments to HB 1377 - Government and Veterans Affairs Committee
02/14/2005**

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3. If two or more bids or proposals are received that are substantially equal, the office of management and budget or any other state agency, department, or institution authorized to accept bids for any service shall give preference to a bidder that indicates that the work will be performed in the United States.
4. The office of management and budget or any other state entity authorized to accept bids for any service may reject the bid of a bidder that indicates that the work will be performed outside the United States if it appears to be in the best interest of the state to have the work performed within the United States."

Renumber accordingly

Date: July 10
Roll Call Vote #: /

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

House House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 50266.0203

Action Taken Do Pass As Amended

Motion Made By Rep. Klemin Seconded By Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas		✓	Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman		✓	Rep. Kari Conrad	✓	
Rep. Randy Boehning		✓	Rep. Louise Potter	✓	
Rep. Glen Froseth		✓	Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter		✓			
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Klemin

If the vote is on an amendment, briefly indicate intent:

1
Amendment
Rep. Meier - attached as modified
Rep. Sitte second
voice vote carried

2
Additional Amendment
Rep. Klemin moved the amendment
Rep. Grande - second
voice carried

3
Attach Amendment
Rep. Klemin
Rep. Meier
voice carried

REPORT OF STANDING COMMITTEE

HB 1377: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1377 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "; and to amend and reenact section 44-08-01 of the North Dakota Century" with "and rejection of bids."

Page 1, remove line 4

Page 1, remove lines 6 through 23

Page 2, remove lines 1 through 16

Page 2, replace lines 19 through 27 with:

"State contracts - Performance of work outside the United States - Notice - Preference.

1. A vendor submitting a bid or proposal to provide services for a state agency, department, or institution shall include a statement in the bid or proposal indicating whether the services covered by the bid or proposal will be performed in the United States.
2. If, during the term of a contract with a state agency, department, or institution, a contractor or subcontractor intends to transfer work under the contract outside the United States, the contractor or subcontractor shall provide written notice to the agency, department, or institution within ninety days before the intended transfer or within such time as specified by the contract that the work is being transferred outside the United States. The notice must include a summary of the work that will be performed outside the United States and a disclosure of the location where the work will be performed. The contracting agency, department, or institution shall respond in writing within thirty days of the receipt of the notice of intent to transfer the work, stating its approval or disapproval of the intended transfer. If the contracting agency, department, or institution does not approve the request to allow the transfer, the agency, department, or institution may terminate the contract.
3. If two or more bids or proposals are received that are substantially equal, the office of management and budget or any other state agency, department, or institution authorized to accept bids for any service shall give preference to a bidder that indicates that the work will be performed in the United States.
4. The office of management and budget or any other state entity authorized to accept bids for any service may reject the bid of a bidder that indicates that the work will be performed outside the United States if it appears to be in the best interest of the state to have the work performed within the United States."

Renumber accordingly

2005 TESTIMONY

HB 1377

The director of the office of management and budget or the director's designee may participate in, sponsor, conduct, or administer a cooperative purchasing agreement with one or more public procurement entities, for the procurement of commodities or services in accordance with an agreement entered into between the participants. Public procurement entity means any political subdivision of this state and any other state, any agency or institution of this state and any other state, any agency of the United States, any Indian tribe recognized as such by the federal government, any organization of public procurement entities, and to the extent provided by law, any other entity that expends public funds for the procurement of commodities and services

Deleted: government

Deleted: or a nonprofit organization established on behalf of public entities

Deleted: ¶

Cooperative purchasing may include open-ended contracts that are available to other public procurement entities.

Deleted: government

Deleted: or a nonprofit organization established on behalf of public entities. ¶

State and federal governments purchase a tremendous amount of computer, technical and other support services from the private sector. That creates an opportunity for companies in North Dakota and throughout the United States.

The escalating practice of outsourcing all or parts of state government contracts overseas takes jobs away from American workers and sends opportunities elsewhere. Conservative estimates indicate that foreign outsourcing firms have captured over \$75 million in state contracts in the last few years.

How can we justify spending millions of dollars on economic development efforts, while shipping our own work abroad? This morning you are going to hear from Joel Jorgenson, a North Dakotan who has taken the initiative to start his own technology company, Packet Digital. A company that is capable of fulfilling the services required in many state contracts and a company that hires other North Dakotans.

In addition, take a drive to Maddock, Langdon, Mayville or Valley City. In each of these communities you will find a first-rate technology center that was built or refurbished for the purpose of creating new jobs in those communities. These communities and many others have made the commitment to invest in their future. As a legislature, we can support those efforts by passing this legislation.

Between the time that this bill was introduced and today, I have had the opportunity to meet with Linda Belisle, Director of the Central Services Division of OMB. Linda will testify regarding her support, and in addition, we have worked on an amendment that further clarifies OMB's and the contracting agencies authority to accept or reject bids under the stated conditions.

This bill addresses the issue of offshoring of contracts through the following:

- requires disclosure in the bid document of whether or not the work will be performed within the U.S. and discloses the location where the work will be performed
- gives advance notice to the contracting agency, if during the term of the contract, of any intent to move the work
- provides preference to the U.S company in the event that two companies submit contracts that are comparable.
- Provides a summary of the work that will be transferred

With the proposed amendment, the bill provides authority to the contracting agency to approve or disapprove the intended transfer within 30 days of receipt of the notice of intent to transfer and determine where the contract will continue unchanged or terminated.

Everyone wants a good value, but we need to ensure that the definition of value isn't limited entirely to the dollar amount but also values the American workers and families. There's an appropriate Oscar Wilde quote that comes to mind, "Pity the fool that knows the price of everything and the value of nothing".

Testimony on House Bill #1377

Mr. Chairman, and members of the committee, my name is Joel Jorgenson of Fargo and I'm in favor of this bill. North Dakota industries are competitive on a regional, national, and worldwide scale, and this bill recognizes the quality of North Dakota's private sector.

The initiatives set forth by North Dakota's leadership over the past few years has fueled an explosion in high technology companies and state wide opportunities. Established companies are moving into the state, hiring North Dakotans for manufacturing, development, and research positions. Centers of Excellence are forming, advancing research in the hard sciences, engineering, and other areas, creating a new wave of intellectual property suitable for technology transfer. And small companies are starting, such as my company, Packet Digital of Fargo, which are creating positions for North Dakota graduates as well as attracting people to North Dakota for good jobs and a great way of life.

North Dakota is becoming recognized internationally for growth and opportunity. A recent article in the Le Figaro, Paris' leading newspaper, contained a lengthy feature story about Fargo and the "cosmopolitan" flavor the city is developing. The Los Angeles Times has also printed similar articles, as have a number of other newspapers, trade magazines, and on-line media sources. The state has made great strides on slowing the outward migration, and is beginning to realize the influx of residents and job growth.

The proposed legislation recognizes the growth in the private sector, and the competitiveness of North Dakota's industries. As our economy continues to grow, diversify, and win world-wide markets, the companies of North Dakota are perfectly poised to meet the needs of state-issued contracts and services.

Testimony HB 1377

Government and Veterans Affairs Committee
C. B. Haas, Chair
Friday, February 4, 2005

Chairman Haas and members of the committee, my name is Linda Belisle. I'm the director of the Central Services Division of OMB.

Offshoring of service contracts is an issue the State needs to address. We support the requirement that bidders must disclose in their response to a bid or proposal whether or not service contracts will be performed in the United States and we support the preference for contractors who perform their work in the United States.

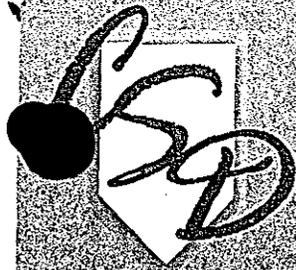
Our concern was with Section 2 in that it didn't go far enough. It required contractors or subcontractors to notify the agency for which work on a service contract is being performed when or if that work is transferred during the term of the contract, which is a good thing. However, there was no provision for whether or not an agency could accept or reject the contractor's notice of intent to transfer the work. Our concern was that the transfer would happen and the State would have no control. And that isn't a good thing.

Conversations with the bill's sponsor resulted in the amendment you have before you and we support that. This bill, if passed as amended, does the following:

1. Requires vendors to:
 - a. Disclose in the bid or proposal document whether or not the work will be performed in the United States.
 - b. Give advance notice to the contracting agency of any intent to move the work outside the United States during the term of the contract.
 - c. Provide a summary of the work that will be transferred.
 - d. Disclose the location where the work will be performed.
2. Requires the contracting agency to:
 - a. Approve or disapprove the intended transfer within 30 days of receipt of the notice of intent to transfer.
 - b. Determine whether the contract will continue unchanged or be terminated.
3. Gives preference to the vendor who will perform the work in the United States if two or more substantially equal bids or proposals are received.

We don't anticipate this situation will occur very often but it is wise to have provisions in place should it happen.

That concludes my testimony and I would be happy to answer any questions you may have.



**Central Services
Division**

4th Floor, Capitol Tower
600 E. Boulevard Ave. Dept. 018
Bismarck, ND 58505-0501
Tel: (701) 328-2780
Fax: (701) 328-1615
www.state.nd.us/csd
Discovernd.com

**State of
North Dakota**

Central Duplicating
Judicial Wing - Basement
600 E. Boulevard Ave. Dept. 118C
Bismarck, ND 58505-0420
Tel: (701) 328-2772
Fax: (701) 328-2778

Central Supply
Judicial Wing - Basement
600 E. Boulevard Ave. Dept. 118
Bismarck, ND 58505-0420
Tel: (701) 328-3346
Fax: (701) 328-2778

State Procurement Office
4th Floor, Capitol Tower
600 E. Boulevard Ave. Dept. 012
Bismarck, ND 58505-0110
Tel: (701) 328-2633
Fax: (701) 328-1615

**North Dakota
Surplus Property**
1000 Industrial Park
P.O. Box 7291
Bismarck, ND 58507-7293
Tel: (701) 328-9665
Fax: (701) 328-9669

FR: Linda Belisle *Linda*
OMB, Central Services Division

DT: February 9, 2005

RE: HB 1377

Chairman Haas and members of the committee, the following information is submitted in response to your requests.

1. How much does the state spend on service contracts performed outside the United States.
 - a. 37 agencies responded to an e-mail sent to the procurement liaisons.
 - b. All responded 0 dollars except the following:
 - i. Board of University and School Lands – “The Board of University and School Lands is currently paying approximately \$110,000 a year to Evergreen International Advisors for the management of an international bond portfolio. Their operations are in London but the parent company, First International Advisors LLC, is domiciled in the U.S.”
 - ii. Department of Corrections – “The DOCR has a contract with Syscon Justice Systems for support for our ITAG offender database. They are located in British Columbia, I have not idea if they perform work outside the US, but they probably do. This biennium we budgeted \$29,160 (federal funds) for the support and maintenance from Syscon Justice Systems for the DJS iTAG juvenile case management system.” The Prison Division of DOCR reports “\$411,650 is included in the 05-07 executive recommendation for an upgrade to ITAG”
 - iii. Department of Human Services – “It looks like this is not information that JP Morgan is willing to provide.”
 - iv. Retirement and Investment Board – “We currently have one contract with a company out of Toronto, Canada for retirement program administration software and implementation services. The total contract amount is \$1,345,000.”

2. Has the Attorney General been consulted on this bill?

I contacted the assistant Attorney General assigned to OMB and am waiting for a response. The initial reaction was that the requirements in this bill should cause no problems.

Attached is a spreadsheet listing the agencies that responded. Please contact me if you need more information.

Cc: Representative Pam Gulleon

Service Contracts
Performed Outside US
2/8/05

Agency Name	No \$	Some \$
Aeronautics Commission	\$ -	
Attorney General	\$ -	
Bank of North Dakota	\$ -	
Board of University and School Lands		\$ 220,000.00
Central Duplicating	\$ -	
Council on the Arts	\$ -	
Dairy Promotion Commission	\$ -	
Department of Agriculture	\$ -	
Department of Corrections		\$ 440,660.00
Department of Human Services*		No figure disclosed
Department of Labor	\$ -	
Department of Public Instruction	\$ -	
Department of Transportation	\$ -	
Game and Fish	\$ -	
Highway Patrol	\$ -	
Industrial Commission	\$ -	
Insurance Department	\$ -	
Job Service North Dakota	\$ -	
Lake Region State College	\$ -	
ND Veterans Home	\$ -	
ND Vision Services	\$ -	
Office of Administrative Hearings	\$ -	
Office of the State Auditor	\$ -	
Parks and Recreation	\$ -	
Public Employees Retirement System	\$ -	
Public Service Commission	\$ -	
Retirement and Investment Office		\$ 1,345,000.00
Risk Management Division	\$ -	
Roughrider Industries	\$ -	
Secretary of State	\$ -	
Securities Department	\$ -	
State Electrical Board	\$ -	
State Fair Association	\$ -	
State Procurement Office	\$ -	
State Seed Department	\$ -	
State Water Commission	\$ -	
Youth Correction Center	\$ -	
TOTAL	\$ -	\$ 2,005,660.00
*Note from Agency "It looks like this is not information that JP Morgan is willing to provide."		