

Introduced by

Senators Lee, Bekkedahl

Representatives Lefor, Monson

1 A BILL for an Act to create and enact two new sections to chapter 54-44.4 and subsection 3 of  
2 section 54-44.4-14 of the North Dakota Century Code, relating to payments for purchases,  
3 communication with elected officials, and the procurement information website; and to amend  
4 and reenact subsection 7 of section 54-44.4-02 of the North Dakota Century Code, relating to  
5 emergency purchases.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1.** A new section to chapter 54-44.4 of the North Dakota Century Code is created  
8 and enacted as follows:

9 **Elected officials - Bidder - Communication.**

10 ~~Notwithstanding any other provision of law, the~~The office of management and budget ~~may~~  
11 ~~not restrict communication between a~~shall develop guidelines for a person interested in  
12 ~~conducting business with the state. The guidelines must address communications between~~  
13 ~~interested persons and purchasing agencies before, during, and after the procurement process.~~  
14 ~~Procurements conducted by the office of management and budget or a purchasing agency must~~  
15 ~~have a procurement officer who serves as the point of contact for all correspondence related to~~  
16 ~~the procurement. A person that is interested in submitting a bid or has submitted a bid or~~  
17 ~~proposal to provide commodities or services to the state and any~~in response to an active  
18 ~~procurement should ensure all communications related to the procurement are only with the~~  
19 ~~designated point of contact. This section does not restrict an interested person's communication~~  
20 ~~with state official~~officials or any member of the legislative assembly ~~unless the state official or~~  
21 ~~member of the legislative assembly is involved directly with the procurement for which the~~  
22 ~~person is interested or has submitted a bid or proposal. This section does not apply to~~  
23 ~~communication with a state official directly involved with a bid under consideration.~~

1       **SECTION 2. AMENDMENT.** Subsection 7 of section 54-44.4-02 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       7.    Emergency purchases the office of management and budget or a purchasing agency  
4           cannot make within the required time and which involve public health or public safety,  
5           or when immediate expenditures are necessary for repairs of state property to protect  
6           it against further loss or damage, or to prevent or minimize serious disruption in state  
7           services.

8       a.    Emergency purchases made under this subsection must be:

9       ~~(1)    Be made with the level of~~ treat all bidders fairly and promote competition  
10       as is practicable under the circumstances, and a:

11       ~~(2)    Include a~~

12       b.    The procurement file must contain a written determination of ~~the~~:

13       ~~(1)    The basis for the emergency;~~ and for

14       ~~(3)    Include a written explanation of the~~

15       (2)    The basis for the selection of the particular contractor ~~which must be~~  
16       included ~~retained in the contract file.~~

17       ~~b.    Emergency bids under this subsection must include a sample of the commodity~~  
18       ~~to be purchased, and a bidder may not change the bid proposal for forty-eight~~  
19       ~~hours after submission.~~

20       c.    If the emergency circumstances warrant a noncompetitive purchase, the office of  
21       management and budget or the purchasing agency shall document within the  
22       procurement file a written determination of the basis for the noncompetitive  
23       purchase, including the circumstances that justified the noncompetitive purchase.

24       d.    If the emergency purchase is subject to federal funding reimbursement, the office  
25       of management and budget or the purchasing agency shall ensure the  
26       procurement procedures and documentation are adequate to satisfy  
27       requirements for federal reimbursement.

28       e.    If time allows, emergency purchases for commodities under this subsection may  
29       require a sample for use in determining whether an offered product meets  
30       specifications.

1       **SECTION 3.** A new section to chapter 54-44.4 of the North Dakota Century Code is created  
2 and enacted as follows:

3       **Purchases - Payment – Commodity.**

4       The purchasing agency ~~shall pay~~ and the vendor ~~may negotiate payment terms~~ for all  
5 commodities ~~within thirty days of receipt of an invoice~~ and services procured. If a date for  
6 payment is not specified by the contract, payment must be made pursuant to section  
7 13-01.1-01.

8       **SECTION 4.** Subsection 3 of section 54-44.4-14 of the North Dakota Century Code is  
9 created and enacted as follows:

10       3. The office of management and budget shall establish and maintain a standardized~~bid~~  
11 procedure for the submission of electronic bids and proposals through the  
12 procurement information website. ~~The procedure must minimize the length of a~~  
13 solicitation for bid and include only the unique specifications related to the commodity  
14 or service soughtThe office of management and budget, in consultation with the office  
15 of the attorney general, shall develop standardized solicitation documents. The  
16 documents must be made available on the procurement information website. When  
17 drafting a solicitation, the office of management and budget and purchasing agencies  
18 shall use their best efforts to minimize the length of the solicitation by ensuring only  
19 those sections from the standardized solicitation documents applicable to the  
20 procurement are included.