

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2162
(Senators Lee, Bekkedahl)
(Representatives Lefor, Monson)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Elected officials - Bidder - Communication.

The office of management and budget shall develop guidelines for a person interested in conducting business with the state. The guidelines must address communications between interested persons and purchasing agencies before, during, and after the procurement process. Procurements conducted by the office of management and budget or a purchasing agency must have a procurement officer who serves as the point of contact for all correspondence related to the procurement. A person that is interested in submitting a bid or has submitted a bid or proposal to provide commodities or services to the state in response to an active procurement should ensure all communications related to the procurement are only with the designated point of contact. This section does not restrict an interested person's communication with state officials or any member of the legislative assembly unless the state official or member of the legislative assembly is involved directly with the procurement for which the person is interested or has submitted a bid or proposal.

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

7. Emergency purchases the office of management and budget or a purchasing agency cannot make within the required time and which involve public health or public safety, or when immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
 - a. Emergency purchases made under this subsection must be made with the level of treat all bidders fairly and promote competition as is practicable under the circumstances, and
 - a.
 - b. The procurement file must contain a written determination of the:
 - (1) The basis for the emergency; and for
 - (2) The basis for the selection of the particular contractor must be included in the contract file.
 - c. If the emergency circumstances warrant a noncompetitive purchase, the office of management and budget or the purchasing agency shall document within the procurement file a written determination of the basis for the noncompetitive purchase, including the circumstances that justified the noncompetitive purchase.

- d. If the emergency purchase is subject to federal funding reimbursement, the office of management and budget or the purchasing agency shall ensure the procurement procedures and documentation are adequate to satisfy requirements for federal reimbursement.
- e. If time allows, emergency purchases for commodities under this subsection may require a sample for use in determining whether an offered product meets specifications.

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

Purchases - Payment.

The purchasing agency and the vendor may negotiate payment terms for all commodities and services procured. If a date for payment is not specified by the contract, payment must be made pursuant to section 13-01.1-01.

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

- 3. The office of management and budget shall establish and maintain a standardized procedure for the submission of electronic bids and proposals through the procurement information website. The office of management and budget, in consultation with the office of the attorney general, shall develop standardized solicitation documents. The documents must be made available on the procurement information website. When drafting a solicitation, the office of management and budget and purchasing agencies shall use their best efforts to minimize the length of the solicitation by ensuring only those sections from the standardized solicitation documents applicable to the procurement are included.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2162.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 94 Nays 0 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State