

CHAPTER 27-02-13 INCREMENTAL BOND PROCEDURES

Section
27-02-13-01 Incremental Bond Procedures

27-02-13-01. Incremental bond procedures.

1. A project will be subject to the provisions of North Dakota Century Code section 52-04-06.1 if the bureau determines that:
 - a. The total of the contracts awarded on the project are at least twenty-five million dollars excluding contracts awarded solely for design and engineering;
 - b. More than one-half of the work will be completed within seven years of the date work begins;
 - c. The total number of individuals performing services in employment on the project total two hundred fifty or more in the aggregate; and
 - d. The estimated total benefits attributable to services performed on the project will exceed the estimated contributions to be paid for services performed on the project.

The total amount of benefits will be estimated assuming that half of the workers will receive benefits equal to the maximum weekly benefit amount times the average duration of benefits paid to all claimants during the most recently completed calendar year. The estimate of contributions to be paid will be made by multiplying the average tax rate for the most recently completed calendar year times the estimated amount of taxable wages to be reported by employers on the project. The estimated taxable wages must be determined by multiplying the number of workers projected to be employed on the project times the maximum taxable wage base in effect for the current year.

2. Determinations, with respect to whether a project is subject to the provisions of North Dakota Century Code section 52-04-06.1, must be made in the same manner as provided for in North Dakota Century Code section 52-04-17.
3. The owner of any projects determined to be subject to the provisions of North Dakota Century Code section 52-04-06.1 must notify the bureau in writing within thirty days of the award of any contract to any employing unit for work on the project. Any contractor for such project who, in turn, subcontracts to another must also notify the bureau in writing of such contract award within thirty days of the issuance of the contract.
4. Each employing unit having employees working on any project subject to the provisions of North Dakota Century Code section 52-04-06.1 shall maintain separate records for all employment on such project showing the individuals' names, social security numbers, and wages paid. Such employers must be required to report such employment and wages separate from other employment subject to the North Dakota Unemployment Compensation Law under a separate reporting account established for the project.
5. Each report must also indicate which workers were North Dakota residents at the time of their hire and the date of their hire. Job service North Dakota will notify the employer in writing which workers identified as North Dakota residents do not meet the two thousand dollars earnings test provided for in subsection 4. The employer will then have thirty days to submit proof of North Dakota residence for the workers so identified. Proof of residence must include copies of state income tax returns, drivers' licenses, vehicle registrations, or other public documents and records showing a North Dakota residence and dated more than one year prior to the date of hire. Failure by the employer to identify workers as North Dakota residents

or furnishing acceptable proof of residence within the time specified will result in loss of refund credit for wages paid to the workers in question.

6. Refunds of bond payments with regard to subsection 4 of North Dakota Century Code section 52-04-06.1 may be made by the bureau only after the employing unit has submitted a written request for such refund. Such request must show for each worker claimed to be a North Dakota resident at the time of their hire, the worker's name, social security number, and total wages paid for work on the project. The request must also show the total wages paid for all work on the project, the percent of the total wages paid to North Dakota residents, the total amount of the employer's bond payments, and the amount of the refund requested. Applications for refund must be made within ninety days after completion of the employer's portion of the work on the contract or the refund will not be allowed.
7. If an employer's request for refund is reduced or denied, the employer must be notified promptly in writing of such determination. Such determination will become final unless, within fifteen days from the date of mailing to the employer's last known address, the employer files a request for redetermination. Proceedings on such request must be in the same manner as requests for redeterminations on rates of contributions as provided for in chapter 27-02-10 and North Dakota Century Code section 52-04-10.

History: Effective January 1, 1991.

General Authority: NDCC 52-02-02

Law Implemented: NDCC 52-04-06.1