

CHAPTER 4-12-05 BIDDERS LIST

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4-12-05-01. Bidders list.

1. A vendor that wants to receive notice of solicitations for bids or proposals must apply to have its name placed on the bidders list for the type of commodities or services that the vendor sells.
2. Placement on the bidders list does not guarantee a vendor will receive notice of every solicitation over the amount established for small purchases.
3. If notice of a solicitation sent to an approved vendor is returned as undeliverable, that vendor may be removed from the state bidders list.
4. The office of management and budget shall develop policies for maintaining the bidders list to include periodically removing from the bidders list vendors that have not responded to solicitations for a particular commodity or service.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04, 54-44.4-09

Law Implemented: NDCC 54-44.4-04, 54-44.4-09

4-12-05-02. Suspension or debarment from bidders list.

1. The state procurement manager may, after consultation with the attorney general, suspend or debar any vendor from a bidders list for cause. The suspension period must be less than six months; the debarment period must be less than three years.
2. The vendor will be given written notice that describes the term of the suspension or debarment, the vendor's right to make a written appeal within seven calendar days, and the reinstatement process.
3. After seven calendar days of notice to the vendor and reasonable opportunity for that person to be heard, the state procurement manager, after consultation with the attorney general, shall have authority to suspend or debar the vendor for cause.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04

Law Implemented: NDCC 54-44.4-04, 54-44.4-09

4-12-05-03. Explanation by vendor.

1. At any time after the vendor receives notice of suspension or debarment, the vendor may submit a written explanation of the circumstances that were the cause of the suspension or debarment order, or may show that the circumstances have been corrected.
2. On the basis of the explanation or showing, the state procurement manager will respond within seven working days and may modify or rescind the removal or suspension.

3. Any modification or rescission will not waive or otherwise affect any other remedies the state might have concerning the vendor.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04

Law Implemented: NDCC 54-44.4-04, 54-44.4-09

4-12-05-04. Cause for suspension or debarment.

Sufficient grounds for suspension or debarment include:

1. Failing to maintain active, good-standing status with the secretary of state;
2. Delivering items that do not comply with the specifications of the vendor's contract with the state;
3. Failing to make delivery within the time specified in the contract or purchase order;
4. Failing to keep an offer firm for the length of time specified by the vendor in the solicitation or the vendor's bid or proposal;
5. Failing to provide a performance bond when required by a solicitation;
6. Colluding with other vendors to restrain competitive bidding;
7. Engaging in unauthorized communications or seeking to obtain information about an open solicitation with any state employee or official other than the responsible procurement officer or designee;
8. Giving information in an application for inclusion on a bidders list that is later found to be false or materially misleading;
9. Substituting of an article, even if it is the same quality, without first securing the written consent of the purchasing agency;
10. Declaring bankruptcy or other evidence of insolvency of the vendor;
11. Any other facts causing substantial doubt as to whether the vendor will continue to be a responsible bidder or offeror that can be relied upon to fulfill its obligations under this article and under any contract awarded to the vendor;
12. Violating the laws of the state that would make it inadvisable for the state to deal with the vendor; or
13. Violating any other provisions of this article.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04

Law Implemented: NDCC 54-44.4-04, 54-44.4-09