

**2021 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2162**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

SB 2162  
1/21/2021

A BILL relating to payments for purchases, communication with elected officials, and the procurement information website; relating to emergency purchases.

**Chair Vedaa** opened the hearing at 11:00 a.m. with Sen Vedaa, Sen Meyer, Sen Elkin, Sen K Roers, Sen Wobbema, Sen Weber, and Sen Marcellais present.

### Discussion Topics:

- Rules for state purchasing
- Emergency Clause

**Senator Lee** introduced the bill.

**Curtis Olafson** testified in support. #2096

**Sherry Neas**, Central Services Division Director testified in support. #2043, #2044 and proposed an amendment.

**Terra Bowley Miller** - ND DOT testified in opposition. #2098

**Chair Vedaa**: Any more testimony? Seeing none, we are closed.

Adjourned at 11:40 a.m.

*Pam Dever, Committee Clerk*

**Curtis Olafson**  
**North Dakota State Senate (2006-2012)**  
**Olafson Farm and Ranch (Est. 1883)**

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**Testimony on Senate Bill 2162**

Background: I joined the sales force of a new startup company specializing in PPE equipment in April of 2020. The company was started by a friend of mine who is a former State Representative in Georgia that I have known and worked with on political efforts for about 10 years. I was soon promoted to Government Team National Leader and worked not only on North Dakota PPE solicitations, but in multiple states around the country with members of our sales force. I noticed that many of the issues that were encumbering the procurement process were common in multiple states. My motivation for asking Senator Lee to introduce this bill was to make the process less cumbersome and more user friendly for vendors and to improve communications between vendors and the OMB procurement staff without complicating their already challenging procurement processes.

I would add that I left my position with the company in late October and I am no longer in the PPE business. Therefore, I have nothing to gain by the passage of this bill other than the satisfaction of offering my experience as a vendor working in multiple states for the consideration of the OMB procurement officials in a way that will hopefully make some improvements to the procurement process.

Section 1 Page 1: This section seeks to clarify a statement on the opening page of the standard North Dakota INVITATION FOR BID (IFB) – MASTER TEMPLATE which states as follows:

“Engaging in unauthorized communication or seeking to obtain information about an open solicitation with any state employee or official other than the responsible Procurement Officer or designee is sufficient grounds for suspension or debarment. [N.D.A.C. § 4-12-05-04(7)]”

In my estimation, there are two ways to interpret that, one of which is that a potential bidder cannot seek to obtain information on an open solicitation from anyone other than the Procurement Officer. I agree with that policy. The other potential interpretation that concerned me was that, if you parse that sentence, it could be interpreted to mean that bidders are prohibited from communicating with an elected official or other state official about the procurement process in general. I don’t believe that was the intention of the current statement, and the proposed amendments offered by OMB serve to clarify this section.

Section 2, Page 2 subsection b: My reason for suggesting a change is that in the procurement process, receiving the samples after the “low bidder” has been identified opens up a scenario whereby the low bidder does not in fact have a product of acceptable quality. My intention was to avoid that outcome which would waste the time of the vendor and the state’s procurement staff. The proposed amendments for that section offered by OMB are appropriate and very helpful. I am also pleased that OMB has added a section detailing the procedures for a noncompetitive emergency purchase, which is very common in the PPE business. Our company did exactly that with the Georgia state government.

Section 3: This language was included in an attempt to shorten the time of payment from the state to a successful vendor. When the vendor secures a supply or actually procures products, particularly in large volumes common in the PPE business, a scenario could develop whereby the vendor has 45 days, and likely more, from the time of their cash outlay until they are paid in full. This has a cost to the vendor and incentivizes “padding” their bid in order to recoup the cost to finance the transaction involving a significant amount of cash. The proposed amendment by OMB suggesting an option for a negotiation process with the vendor for the payment schedule is an improvement from current practices. I do not know what the average time actually is from the time of submission of an invoice until a vendor is paid, but it should not, in any event, take 45 days.

Section 4: This language is in the bill to attempt to streamline the Invitation For Bid documents. Currently, many of them are 16 pages long (or more) and they often repeat multiple pages of the same bid requirements and procedures. As a bidder, I felt it was prudent and necessary on my part to go through every page line by line in case a new or different requirement was in that particular IFB. If standard bid procedures can be posted online, the IFB document could make reference to a link for those procedures and save bidders a considerable amount of time in reviewing each IFB. Any procedures or specifications that are unique to an individual IFB should, of course, continue to be detailed in the IFB document. The proposed OMB amendment appears to address this issue adequately.

I would encourage you to adopt the amendments as proposed by OMB and give Senate Bill 2162 a DO Pass recommendation.

## PROPOSED AMENDMENTS TO SENATE BILL NO. 2162

Page 1, after line 6, replace the remainder of the bill with:

**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.**

~~Notwithstanding any other provision of law, the~~ The office of management and budget shall develop guidelines for a person interested in conducting business with the state of North Dakota. These guidelines shall address communications between interested persons and purchasing agencies before, during, and after the procurement process. ~~may not restrict communication between a~~ Procurements conducted by the office of management and budget or a purchasing agency shall have a procurement officer who serves as the point of contact for all correspondence related to that procurement. A person ~~that is~~ interested in submitting a bid or proposal or whom 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 ~~and any state official~~ officials or ~~any member~~ members of the legislative assembly unless they are directly involved with the procurement for which the person is interested or has submitted a bid or proposal. ~~This section does not apply to communication with a state official directly involved with a bid under consideration.~~

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

~~(2)~~b. The procurement file must contain:

(1) ~~Include a~~ written determination of the basis for the emergency; and for

(32) ~~Include a~~ written explanation-determination of the basis for the selection of the particular contractor-which must be includedretained in the contract file.

b.c. If the emergency circumstances dictate 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 necessitated the noncompetitive purchase.

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

e. If time allows, ~~Emergency bids~~ emergency purchases for commodities under this subsection must may includerequire a sample of the commodity to be purchased, and a bidder may not change the bid proposal for forty-eight hours after submissionfor 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 - Commodity.**

The purchasing agency shall pay the and vendor may negotiate payment terms for all commodities within thirty days of receipt of an invoice and services procured. If no date for payment is specified by contract, payment shall 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 bid 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 attorney general, shall develop standardized solicitation documents. These standardized solicitation documents shall 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 procedure must minimize the length of a the solicitation for bid and include by ensuring only the those sections from the standardized solicitation documents applicable unique specifications related to the commodity or service sought procurement are included.

Renumber accordingly

TESTIMONY OF

**Sherry Neas, Central Services Division Director**

Chairman Vedaa and members of the Senate Government and Veterans Affairs Committee. I am Sherry Neas, Director of the Office of Management and Budget (OMB) Central Services Division. I am here to testify regarding Senate Bill No. 2162 related to emergency purchases and state purchasing practices.

OMB appreciates the opportunity to discuss our concerns with the bill's sponsors and collaborate on an amendment to the bill. OMB supports the bill as amended.

**Section 1**

As introduced, Section 1 prevented OMB from restricting communications between bidders and state officials or members of the legislative assembly.

OMB would like to explain that we have never specifically prohibited communication between a potential or actual bidder and state officials or members of the legislative assembly. However, after discussion with the bill's sponsors, we do understand the concerns that prompted the legislation.

OMB has existing ND Century Code ("Laws"), ND Administrative Code ("Rules"), and standard language related to vendor communications during the procurement process to ensure fair treatment of vendors and prevent unfair practices such as: one vendor gaining an advantage over others through insider information; or a vendor attempting to influence the award of a public contract. In order to ensure fair and equitable treatment for all vendors, certain control measures have been adopted as standard procedures in procurements. Every procurement has a procurement officer as the point of contact for communications. Questions about solicitations must be directed to the procurement officer. This ensures the answers are provided to all vendors at the same time. Under current Rules, vendors who engage in unauthorized communication regarding an open solicitation can be suspended or debarred from the state bidders list. There are also Laws and Rules related to protests and appeals, which are administrative processes available to vendors who have concerns related to solicitations and awards.

OMB has no objection to a new statute clarifying that actual and potential bidders may communicate with state officials and members of the legislative assembly. As introduced, the language in the bill may inadvertently undermine the existing Laws and Rules related to vendor communications because the language does not reference the established practices and



vendors may be mistakenly encouraged to contact elected officials instead of the procurement officer. OMB offers the proposed amendments to this bill and we are satisfied that the amended language addresses our concerns while accomplishing the original intent of the bill's sponsors.

## **Section 2**

Section 2 amends the existing emergency purchase laws that are under the section of law related to exemptions from the procurement process.

As introduced, the bill included a new subparagraph requiring samples for emergency purchases of commodities. OMB has two concerns with this new language.

- **Limitations:** This language could limit emergency purchases to commodities. Currently, the emergency purchase law allows for the procurement of commodities or services.
- **Sample Requirements:** Under existing procurement Laws, Rules and procedures, a purchasing agency may require samples as part of any procurement, including an emergency purchase. Samples are required to ensure that the offered product meets specifications. While requiring samples as part of a standard procurement process may be effective and doable, making samples a mandatory requirement for an emergency purchase of commodities may actually be a hindrance to an emergency purchase.

In addition, OMB recommends deleting the language, as introduced, that states, "a bidder may not change the bid proposal for forty-eight hours after submission." OMB is concerned that changing emergency purchasing laws to freeze bids and proposals for forty-eight hours could limit the state's ability to respond to emergency situations that impact lives, public safety and disruption of state services. The proposed amendment removes this limiting language.

Currently, in standard procurements, OMB does not encounter situations in which bidders attempt to change pricing. Existing Laws, Rules, and procedures govern changes to bids and proposals. No changes are allowed to bids after the closing date. The Request for Proposal (RFP) process allows the procurement officer to request Best and Final Offers which give all vendors the same opportunity to submit revised proposals.

OMB offers the proposed amendment addressing our concerns with the bill's language as introduced, offering additional language clarifying the emergency purchase section, and specifically addressing noncompetitive emergency purchases.

## **Section 3**

Section 3 creates a new section of law related to payments. As introduced, the language of the bill conflicts with existing statute, N.D.C.C. § 13-01.1-01, requiring prompt payment "for each complete delivered item of property or service on the date required by contract" between a business and "[e]very state agency, political subdivision, or school district, which acquires property or services pursuant to a contract with a business..." The existing statute requires, "if no date for payment is specified by contract, [payment shall be made] within forty-five days after receipt of the invoice covering the delivered items or services."

Because this new section, as introduced, conflicts with existing law, it is the preference of OMB that it be struck from the bill. Existing contract and obligations laws and debtor and creditor laws already provide authority for the negotiation of payment terms and conditions in procurement contracts.

However, OMB recognizes the legislative assembly may want to address this issue within N.D.C.C. chapter 54-44.4 and offers the proposed amendment with the caveat that further amendments to Section 3 may create unintentional conflicts or ambiguities between this new law and existing laws governing contracts and obligations or debtor and creditor relationships.

The proposed amendment simply specifies that the purchasing agency and vendor may negotiate payment terms and it references the existing law that will apply in instances where a contract fails to specify payment terms.

#### **Section 4**

Section 4 amends the existing law related to the procurement information website. As introduced, the language seeks to require OMB post standard terms and conditions on this website, so the solicitation only contains the specifications.

OMB understands the concern regarding overly lengthy solicitation documents. However, the state purchases a wide variety of goods, services, information technology and printing. OMB and purchasing agencies need the flexibility to customize solicitation documents and contracts for specific commodity or service being purchased. It is important that vendors know the specific terms and conditions that will apply to the contract when they submit a bid or proposal.

OMB works regularly with stakeholders to refine and revise existing template documents. We understand at times some documents may seem lengthy or overly burdensome to some vendors, but I assure you we are committed to creating procurement documents that balance the need for the state to purchase needed commodities and services for the best value as a good steward of the taxpayers' dollar while attracting competitive, competent and responsible vendors in just about every professional and technical field imaginable.

We appreciate the concerns addressed in the bill and offer the proposed amendment seeking to achieve the desired outcome of encouraging standardization of procurement documents and encouraging brevity, while retaining the ability and best practice of customizing the template to fit the commodity or service being purchased.

Mr. Chairman and committee members, this concludes my testimony. Again, I thank the bill's sponsors for the opportunity to discuss concerns prior to this hearing. I ask your support for Senate Bill 2162 as amended. I would be happy to answer any questions.

**SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE**  
**January 21, 2021 – 11:00 AM – Room 216**

**North Dakota Department of Transportation**  
**Terra Miller Bowley, Deputy Director for Administration**

**SB2162**

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Good morning Mr. Chairman and members of the committee. My name is Terra Miller Bowley and I am the Deputy Director for Administration for the North Dakota Department of Transportation.

Section 3, related to payments for commodities, of Senate Bill 2162 could be problematic for the Department of Transportation. The Department of Transportation procures a wide variety of commodities – some with some significant lead time prior to delivery. It is not uncommon for the department to receive an invoice prior to delivery and inspection of the commodity. Invoices are not paid until delivery has been made and the commodity is inspected and accepted. There will be many times where an invoice will not be paid within 30 days of receipt at the department. Should this bill pass in its original form, we could be unable to comply with the law in many instances.

For this reason, we support the amendments proposed by the Office of Management and Budget, particularly the amendment to section 3 of the bill. We ask for your favorable consideration of the OMB amendments.

Thank you for the opportunity to testify on this bill. I would be happy to address any questions the committee may have.

# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

SB 2162  
2/4/2021

### Relating to emergency purchases

**Chair Schaible** called to order at 3:40 p.m

Senators present: Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber  
Marcellais

#### Discussion Topics:

- Amendment 21.0190.02002

**Sen K Roers:** I move to adopt amendment 21.0190.02002

**Sen Meyer:** seconded the motion

**Voice Vote Was Taken: Motion passed**

**Sen K Roers:** I move a Do Pass as Amended.

**Sen. Meyer:** I second

**Roll Call Vote: 7 -- YES 0 – NO 0-ab**

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

**Sen K Roers will carry the bill**

Adjourned at 3:44 p.m.

*Pam Dever, Committee Clerk*

February 4, 2021

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2/4  
1 of 2

PROPOSED AMENDMENTS TO SENATE BILL NO. 2162

Page 1, line 10, replace "Notwithstanding any other provision of law, the" with "The"

Page 1, line 10, remove "may not"

Page 1, line 11, replace "restrict communication between a" with "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"

Page 1, line 12, after "bid" insert "or proposal"

Page 1, line 12, replace "and any" with "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"

Page 1, line 12, replace "official" with "officials"

Page 1, line 13, after "assembly" insert "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"

Page 1, line 13, remove "This section does not apply to communication with a state official directly"

Page 1, remove line 14

Page 1, line 17, after "budget" insert "or a purchasing agency"

Page 1, line 21, remove the underscored colon

Page 1, line 22, remove "(1) Be"

Page 1, line 22, overstrike "made with the level of" and insert immediately thereafter "treat all bidders fairly and promote"

Page 1, line 22, after "competition" insert "as is"

Page 1, line 24, replace "(2) Include a" with:

"b. The procurement file must contain a"

Page 1, line 24, overstrike the first "the" and insert immediately thereafter: "."

"(1) The"

Page 2, line 1, replace "(3) Include a written explanation of the" with:

"(2) The basis for the"

Page 2, line 2, remove "which"

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2 of 2

Page 2, line 2, overstrike "must be included"

Page 2, line 2, remove "retained"

Page 2, line 2, overstrike "in the contract file"

Page 2, replace lines 3 through 5 with:

- "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."

Page 2, line 8, remove " - **Commodity**"

Page 2, line 9, replace "shall pay" with "and"

Page 2, line 9, after "vendor" insert "may negotiate payment terms"

Page 2, line 9, remove "within thirty days of receipt"

Page 2, line 10, replace "of an invoice" with "and services procured"

Page 2, line 10, after the underscored period insert "If a date for payment is not specified by the contract, payment must be made pursuant to section 13-01.1-01."

Page 2, line 13, remove "bid"

Page 2, line 15, remove "The procedure must minimize the length of a"

Page 2, remove line 16

Page 2, line 17, replace "or service sought" with "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"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2162: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2162 was placed on the Sixth order on the calendar.

Page 1, line 10, replace "Notwithstanding any other provision of law, the" with "The"

Page 1, line 10, remove "may not"

Page 1, line 11, replace "restrict communication between a" with "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"

Page 1, line 12, after "bid" insert "or proposal"

Page 1, line 12, replace "and any" with "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"

Page 1, line 12, replace "official" with "officials"

Page 1, line 13, after "assembly" insert "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"

Page 1, line 13, remove "This section does not apply to communication with a state official directly"

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Page 1, line 22, remove "(1) Be"

Page 1, line 22, overstrike "made with the level of" and insert immediately thereafter "treat all bidders fairly and promote"

Page 1, line 22, after "competition" insert "as is"

Page 1, line 24, replace "(2) Include a" with:

"b. The procurement file must contain a"

Page 1, line 24, overstrike the first "the" and insert immediately thereafter: ".

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Page 2, line 1, replace "(3) Include a written explanation of the" with:

"(2) The basis for the"

Page 2, line 2, remove "which"

Page 2, line 2, overstrike "must be included"

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Page 2, line 2, overstrike "in the contract file"

Page 2, replace lines 3 through 5 with:

- "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."

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Renumber accordingly



# 2021 SENATE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Room JW216, State Capitol

SB 2162  
2/5/2021

<b>Relating to emergency purchases</b>
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**Chair Vedaa** called to order at 11:35 a.m. with Sen Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber, and Marcellais present.

**Discussion Topics:**

- Marcellais vote
- Held from 2/4

**Sen Marcellais:** I vote YES on SB 2162.

**Roll Call Vote 7 - 0 - 0**

**Motion Passed as Amended**

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

**Sen K Roers will carry the bill.**

Adjourned at 11:36 a.m.

*Pam Dever, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2162: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2162 was placed on the Sixth order on the calendar.

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Renumber accordingly

**2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**SB 2162**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2162  
3/25/2021

Relating to payments for purchases, communication with elected officials, and the procurement information website; relating to emergency purchases

**Chairman Kasper** opened the hearing at 9:43 a.m.

Representatives	Roll Call
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- OMB guidelines
- State purchasing practices

**Senator Lee** introduced and testified in favor.

**Sherry Neas, Central Services Division Director of OMB**, testified in favor, #10686.

**Rep. Karls** moved **Do Pass**. **Rep. Schneider** seconded.

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y

Representative Greg Stemen	Y
Representative Steve Vetter	Y

**Motion passes.** 14-0-0. **Rep. Karls** is the carrier.

**Chairman Kasper** ended at 10:02 a.m.

*Carmen Hart, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2162, as engrossed: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2162 was placed on the Fourteenth order on the calendar.

TESTIMONY OF

**Sherry Neas, Central Services Division Director**

Chairman Kasper and members of the House Government and Veterans Affairs Committee. I am Sherry Neas, Director of the Office of Management and Budget (OMB) Central Services Division. I am here to testify in favor of Senate Bill No. 2162 related to emergency purchases and state purchasing practices.

**Section 1**

OMB supports the proposed new statute related to OMB developing guidelines for vendor communications. The language clarifies that that actual and potential bidders may communicate with state officials and members of the legislative assembly.

**Section 2**

Section 2 amends the existing emergency purchase laws that are under the section of law related to exemptions from the procurement process. Current law does not provide guidance for noncompetitive emergency purchases, and the bill creates a requirement for documentation of the basis for a noncompetitive emergency purchase. When Federal funds are used for a purchase, the Federal granting agency often requires approval of noncompetitive purchase. The bill creates a requirement for OMB or the purchasing agency to ensure that the procurement process and documentation satisfies requirements for federal reimbursement.

**Section 3**

Section 3 creates a new section of law related to payments which references the existing statute, N.D.C.C. § 13-01.1-01. The existing statute requires, "if no date for payment is specified by contract, [payment shall be made] within forty-five days after receipt of the invoice covering the delivered items or services."

This section of the bill simply specifies that the purchasing agency and vendor may negotiate payment terms and it references the existing law that will apply in instances where a contract fails to specify payment terms.

**Section 4**

This section of the bill amends current law regarding the procurement information website to require OMB to establish standardized procedures for submission of electronic bid and proposals through the procurement information website. The bill requires OMB, in consultation with the office of the attorney general, to establish standardized solicitation documents. The bill further discourages overly lengthy procurement documents and encourages OMB and purchasing agencies to "use their best efforts to minimize the length of solicitations."



Mr. Chairman and committee members, this concludes my testimony. Again, I thank the bill's sponsors for the opportunity to collaborate on amendments to this bill. OMB ask your support for Senate Bill 2162 as amended. I would be happy to answer any questions.