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# **GUIDELINES**

# **TO**

# **ENVIRONMENTALLY**

# **PREFERABLE PROCUREMENT**

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**State of North Dakota**

**These guidelines are a result of the cooperative efforts of the North Dakota  
State Board of Higher Education and the Office of Management & Budget State  
Procurement Office**

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## Chapter 1: Environmentally Preferable Procurement Program

These guidelines establish the North Dakota Environmentally Preferable Procurement Program. The State of North Dakota recognizes we are a large consumer of goods and services. Every one of our purchases has an environmental impact resulting from the combined effect of a product's manufacture, use and disposal. As a result, the daily purchasing decisions of our employees and contractors can positively or negatively affect the environment.

These guidelines implement state laws related to environmentally preferable procurement that are broken down into four (4) categories: Environmentally Preferable Products (EPP), soybean-based ink, biobased products, and recycled content in paper.

By including environmental considerations in our purchasing decisions, along with our traditional concerns with price, performance, and availability, we will remain fiscally responsible while promoting practices that will reduce adverse environmental impact, reduce pollution, improve public health, safety and conserve natural resources.

If questions arise, contact the Office of Management and Budget (OMB) State Procurement Office at 701-328-2740.

## Chapter 2: Environmentally Preferable Products

Section 1 of North Dakota Century Code (N.D.C.C.) § [54-44.4-07](#), Procurement of environmentally preferable products states: *"The office of management and budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products are encouraged to purchase environmentally preferable products."* (See Appendix 1)

Buying environmentally preferable products means the State of North Dakota will seek products that have a reduced effect on human health and the environment when compared with competing products serving the same purpose. In practice, this means seeking products that have reduced environmental impact because of the way they are made, used, transported, stored, packaged, and disposed of, including the potential for reuse or ability to be recycled. It means looking for products that do not harm human health, are less polluting, minimize waste, maximize the use of biobased and recycled materials, conserve energy and water, and reduce the consumption or disposal of hazardous materials.

Information is available from independent, well-respected organizations that can be integrated into North Dakota's purchasing specifications, including:

- Recycled content products designated by the U.S. Environmental Protection Agency (EPA), [www.epa.gov/cpg](http://www.epa.gov/cpg).
- Energy-efficient products listed by the Energy Star program, [www.energystar.gov](http://www.energystar.gov).
- Products and services branded as UL Environment and contain the UL Environment Certification mark, which replaced the EcoLogo mark, [www.ul.com/environment](http://www.ul.com/environment).
- Products and services for which Green Seal standards have been established, [www.greenseal.org](http://www.greenseal.org).

When determining whether a product is environmentally preferable, the following environmental attributes should be considered:

➤ Biobased	➤ Low-toxicity
➤ Biodegradable	➤ Made from rapidly renewable materials
➤ Carcinogen-free	➤ Persistent, bio-accumulative toxic- free
➤ Chlorofluorocarbon (CFC)-free	➤ Recyclable
➤ Compostable	➤ Recycled content
➤ Durable	➤ Reduced greenhouse gas emissions
➤ Energy efficient	➤ Upgradeable
➤ Less hazardous	➤ Water efficient
➤ Location of manufacturing (carbon blueprint)	➤ Reusable
➤ Low volatile organic compound (VOC) content	➤ Resource efficiency
➤ Heavy metal free (e.g., no lead, mercury, cadmium)	

### Chapter 3: Soybean-based Ink

Subsection 1 (a) of N.D.C.C. [54-44.4-07](#), Procurement of environmentally preferable products states: *“Where practicable, specifications for purchasing newsprint printing services should specify the use of soybean-based ink. The North Dakota soybean council and the agriculture commissioner shall assist the office of management and budget in locating suppliers of soybean-based inks and in collecting data on the purchase of soybean-based inks”.*

OMB Central Duplicating and state agencies should specify the use of soybean-based ink for news print jobs. Agencies may contact the OMB State Printing Manager for assistance by calling 701-328-3494.

### Chapter 4: Biobased Products

#### 4.1 Biobased Products Defined

Subsection 1 (c) of N.D.C.C. [54-44.4-07](#), Procurement of environmentally preferable products states: *“where practicable, biobased products should be specified.”*

A biobased product is a commercial or industrial product (other than food or feed) that is comprised in whole or in part of biological products, renewable agricultural materials, or forestry materials.

#### 4.2 U.S.Department of Agriculture BioBased Products

Section 9002 of the Farm Security and Rural Investment Act of 2002 requires U.S. Department of Agriculture (USDA) to develop and implement a biobased product procurement program. This was implemented to increase the purchase and use of biobased products, consistent with applicable provisions of Federal procurement law. The USDA biobased procurement program consists of a biobased product preference program, a biobased product procurement promotion program and an annual review and monitoring of program effectiveness. For procurement preference to apply the products must be designated. Designated products must be reasonably available, meet performance standards and be reasonably priced. Visit the USDA website to learn more about designated biobased products: [www.biopreferred.gov](http://www.biopreferred.gov).

### **4.3 Midwestern Governors Association Bioproduct Procurement Resolution**

In November 2007, Governor John Hoeven signed a Midwestern Governors Association resolution to establish a Midwestern Bio-product Procurement Program. North Dakota, along with eleven other Midwestern states and the Province of Manitoba agreed to jointly create a regional task force of state procurement officials and others to develop a Biobased Product Procurement System. (See Appendix 2.)

In March 2008, the task force held its first meeting, and agreed to procure biobased products that meet or exceed the guidelines of the Federal Biobased Products Preferred Procurement Program that is administered by the U.S. Department of Agriculture (USDA). The task force may approve other biobased products and establish contracts for cooperative procurement of biobased products. The OMB, State Procurement Office represents North Dakota on this regional task force.

## **Chapter 5: Recycled Content**

There are two (2) state laws related to recycled paper products:

Subsection 1 (b) of N.D.C.C. [54-44.4-07](#), Procurement of environmentally preferable products states: *“In requesting bids for paper products, the office of management and budget must request information on the recycled content of such products”.*

N.D.C.C. section [54-44.4-08](#), Purchase of recycled paper products states: *“The office of management and budget, and any state agency or institution that has authority to purchase products, shall ensure that at least twenty percent of the total volume of paper and paper products being purchased for state agencies and institutions contain at least twenty-five percent recycled material. The office of management and budget shall implement a methodology to track compliance with this section”.*

There are various types of recycled materials:

- Pre-consumer material means materials generated in the manufacturing process, such as scraps, trimmings or cuttings.
- Post-consumer material means materials or finished products that have served its intended use and has been diverted or recovered from the waste disposal process.
- Post-consumer recycled content means waste materials and byproducts that have been recovered or diverted from solid waste.
- Pre-consumer material and post-consumer material are each subsets of post-consumer recycled content.

The Office of Management and Budget is responsible for purchasing different categories of paper products including: print, calendars, envelopes, janitorial, paper, office supplies and core boxes. The Office of Management and Budget is also responsible for tracking all categories of paper products to ensure compliance with N.D.C.C. section [54-44.4-08](#).

Only recycled paper products that have at least twenty-five percent recycled content will qualify toward meeting the statutory requirement of twenty percent of the total volume of paper.

## **Chapter 6: Balancing Environmental Considerations with Performance, Availability and Financial Cost**

The State of North Dakota is committed to buying more environmentally preferable products and services as long as they meet our performance needs and they are available within a reasonable period of time, at a reasonable cost. Nothing in this guideline shall be construed as requiring a state agency or institution to procure products that do not perform adequately for their intended use, exclude adequate competition, are not readily available or are not reasonably priced.

When comparing cost, the State of North Dakota will not focus exclusively on the initial price. Instead, we will calculate and compare total costs over the life of the item, which includes the initial cost along with maintenance, operating, disposal, replacement, and potential liability costs.

Examining life cycle costs will save money by ensuring we are quantifying the total cost of ownership before making purchasing decisions. Sometimes the state may pay more for higher performing goods and services, including those with superior environmental performance.

## **Chapter 7: Responsibilities**

### **7.1 Agency Responsibility**

Every state agency and institution is responsible for ensuring its employees and contractors are aware of the State of North Dakota's desire to buy more environmentally preferable and biobased products. Contractors who do work on behalf of the State of North Dakota should be required to use environmentally preferable and biobased products to the extent practicable.

Every employee with authority to purchase on behalf of the state are responsible for considering the environmental impact of the products and services and specifying environmentally preferable and biobased products where practicable.

### **7.2 OMB Responsibilities**

When establishing state term contracts, the OMB State Procurement Office shall ensure that wherever possible the specifications and solicitation language allow consideration of environmentally preferred products offered as an alternative to traditional products with a negative environmental impact.

The OMB State Procurement Office shall develop solicitation templates that indicate EPP during the evaluation process and place them on the SPO website. Also, the [state contracts website](#) identifies contracts that offer environmentally preferable and biobased products and services.

By September 30 of each new biennium, the OMB State Procurement Office, in coordination with the State Board of Higher Education, will undertake a comprehensive review of this program. The review will document the State of North Dakota's progress made in implementing the environmentally preferable purchasing program. The review shall also identify future procurement opportunities and recommendations for changes to the environmentally preferable products, soybean procurement, biobased, and recycled content guidelines. Following this review, OMB and the North Dakota State board of Higher Education will make any needed revisions to these guidelines, program goals, and related resources will be published.

## Appendix 1

### North Dakota Century Code

#### 54-44.4-07. Procurement of environmentally preferable products.

1. The office of management and budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products are encouraged to purchase environmentally preferable products.
  - a. Where practicable, specifications for purchasing newsprint printing services should specify the use of soybean-based ink. The North Dakota soybean council and the agriculture commissioner shall assist the office of management and budget in locating suppliers of soybean-based inks and in collecting data on the purchase of soybean-based inks.
  - b. In requesting bids for paper products, the office of management and budget must request information on the recycled content of such products.
  - c. Where practicable, biobased products should be specified.
2. The office of management and budget, in coordination with the state board of higher education, shall develop guidelines for a biobased procurement program.

## Appendix 2

Resolution for Establishing a Midwestern Bioproduct Procurement Program,

Energy Security and Climate Stewardship Platform for the Midwest Region of the United States and Canada, pg, 28, Midwestern Governors Association 2007.

**WHEREAS**, biobased products are an important aspect of the profitability of biorefineries, create new domestic demand for agricultural commodities, expand the industrial base through value-added agricultural processing and manufacturing, and enhance the nation's energy security by substituting domestically produced biobased products for those made from fossil energy inputs; and

**WHEREAS**, the U.S. departments of Agriculture and Energy, following authorization in the 2002 Farm Security and Rural Investment Act, have created a system called the FB4P program under which federal agencies must purchase designated biobased products that are available and cost-competitive with fossil-based equivalents; and

**WHEREAS**, the U.S. departments of Agriculture and Energy have already contracted with Iowa State University to conduct life cycle testing on a list of products and has conducted a series of rule-makings to designate products "biobased"; and

**WHEREAS**, at least two Midwestern states, Illinois and North Dakota, have adopted biobased product procurement laws;

**NOW, THEREFORE, BE IT:**

**RESOLVED**, that the states of Indiana, Iowa, Kansas, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin and province of Manitoba jointly establish a Midwestern Biobased Product Procurement System (hereafter System) to support growth of the region's bioeconomy; and be it

**RESOLVED**, that the System should create a common approach to listing biobased products consistent with the federal program, with System members adopting products based on their own procurement rules; and be it

**RESOLVED**, that System members agree to seek authorizing legislation, where necessary, to enable participation in the System; and be it

**RESOLVED**, that System members agree to form a regional task force of state procurement officials and others to design the rules of a regional biobased product system and make other recommendations as necessary to establish the System; and be it

**RESOLVED**, that the governors and premier, through the MGA, will appoint a regional task force of state procurement officials that shall work with the public and private sectors to oversee and implement the System and to develop and recommend to the governors and premier, no later than June 1, 2008, model rules for the System.

**DONE**, this 15th day of November, 2007, in Milwaukee, Wisconsin.

### **Acknowledgment**

We wish to acknowledge Scot Case, Director of Procurement Strategies, Center for a New American Dream for allowing us to adapt language from Environmental Purchasing Policies 101, An Overview of Current Environmentally Preferable Purchasing Policies for the Commission for Environmental Cooperation and the North American Green Purchasing Initiative; March 25, 2004.