



STATE PROCUREMENT MANUAL

OFFICE OF MANAGEMENT AND BUDGET

Prepared by
State Procurement Office

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Manual Update History		
Section Number and Title	Effective/Date Changed	Summary
Chapter 1 training & Matrix, 3.3, 3.6, 4.3, 5.4, 5.5, and Chapter 10, 11.3 Other Laws	8-1-25	Aug 1 Vendor Pool and Major IT laws, 3.6 DHHS name change, 4.3 Update Environmentally preferable & soybean ink, 5.4 Secretary of State, 5.5 Click Thru \$20,000, Chapter 10 exemptions by OMB written directive, 11.3 Prequalification under 54-44.7
Chapter 10	7-1-25	Exemptions – Statute Changes August 1, 2025
Chapter 9	7-1-25	9.6 IT Special Procedures
Chapter 7	7-1-25	Threshold Updated
Chapter 6	7-1-25	P-card Information Updated
Chapter 5	7-1-25	5.4 Secretary of State, 5.5 Click Thru law, 5.13 Preference Laws, New Sections added
3.4 Cooperative Purchasing & 3.5 State Sources of Supply	7-1-25	Updated State Sources of Supply updated, new law NDUS may establish cooperative purchasing contracts under N.D.C.C. § 54-44.4-13, cooperative laws.
1.8 and 1.9 Delegated Authority	7-1-25	Changes to Delegated Authority
1.5 Purchasing Thresholds, 1.6 Certification Program	7-1-25	Procurement Competition Thresholds, Fixed Asset Reporting, and Procurement Training changed.
4.6 Lease vs Purchase Analysis	3-18-25	Lease vs. Purchase Analysis repealed by the 69th
5.4 Selecting a Bidder	8-23-18	Update NDSU Extension Service URL under Contractors, Professional and Occupational Licenses.
9.2 Microfilm Equipment and Services	7-1-19	Updated language to more closely reflect statutory exclusion of Higher Education institutions.
1.5 Purchasing Thresholds	7-1-19	Updated Matrix state agencies need to have IT review purchases over \$25,000. Revised alternate procurement language
1.8 OMB Blanket Delegated Purchase Authority	7-1-19	Moved and renumbered this section from 1.9 to 1.8. Removed paragraph referring to the threshold transition period of July 1, 2018 – December 31, 2018.
1.9 Special Delegated Purchase Authority	7-1-19	Renumbered 1.8 to 1.9 Special Delegated Purchase Authority, add IT and non-state employee information.
7.4 Contract Amendment Exception Approval	7-1-19	Definition-Added clarifying language and examples
9.8 Insurance	7-1-19	Updated North Dakota Insurance Reserve Fund (NDIRF) for fire and tornado insurance.

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Chapter 1: State Procurement Program

1.1 Introduction

Procurement is the process of purchasing, renting, leasing, or otherwise acquiring any goods or services. This includes the process of acquisition, including description of requirements, solicitation of bids and proposals, evaluation and selection of sources, preparation and award of a contract, and all phases of contract administration (N.D.A.C. § [4-12-01-02](#)). The terms “procurement” and “purchasing” are used interchangeably.

It is a state policy that each state agency and institution obtain necessary goods and services at a competitive cost, consistent with quality, time, and performance requirements with fair and equal opportunity to all persons qualified to sell to the State, except as otherwise provided by law (N.D.C.C. § [54-44.4-01](#)). These procedures are not intended to restrict the effectiveness of individuals involved in the procurement, but to provide for legal, complete, and consistent consideration of all aspects of the procurement process.

The purpose of this manual is to establish guidelines for procurement that are in accordance with North Dakota Century Code (N.D.C.C.), North Dakota Administrative Code (N.D.A.C.) and written directives of the Office of Management and Budget (OMB). This manual is intended to be a desktop reference and training manual for state employees responsible for purchasing printing, goods, services, and information technology. Agencies and institutions may establish internal procedures that do not conflict with state procurement laws, rules, and these guidelines.

If questions arise, contact the OMB State Procurement Office at infospo@nd.gov or 701-328-2740.

1.2 State Procurement Program

OMB is the administrative agency for state procurement for the executive branch of government, excluding institutions under the jurisdiction of the State Board of Higher Education. OMB promulgates rules related to state procurement practices. The State Procurement Office (SPO) is the section within OMB responsible for state procurement. SPO will make purchases on behalf of agencies, and provide procurement assistance (N.D.C.C. §§ [54-44-04\(18\)](#), [54-44.4-02](#), [54-44.4-04](#)).

The State Board of Higher Education has the authority to determine policy for purchasing for the North Dakota University System in coordination with OMB (N.D.C.C. § [15-10-17](#), [S.B.H.E Policy 803.1](#), [NDUS Procedure 803.1](#)).

1.3 Lead Procurement Officer – Procurement Liaison

OMB and NDUS require each agency and institution to designate a lead procurement officer who is responsible for the procurement functions of the organization and Agency Liaison to the State Procurement office ([NDUS Procedure 803.1](#)).

OMB asks each agency head to complete a [Procurement Liaison Designation Form, SFN 53112](#), to designate the agency’s lead procurement officer and liaison to OMB State Procurement.

OMB has assigned a State Procurement Officer to each agency and institution. Don’t hesitate to contact the OMB State Procurement Officer assigned to your agency or institution when you need assistance. The [Agency Procurement Officer Assignments](#) listing is posted on the OMB website.

1.4 Procurement Online Work Request System

OMB State Procurement Office will purchase on behalf of agencies. Agencies are also required to submit certain purchase requests to OMB. Agency employees with a NDGOV user name and password can use the [Procurement Work Request System](#) to submit a purchase request or ask for assistance from the OMB State Procurement Office. Use the Procurement Work Request System to submit forms, comments, and questions to SPO. If you do not have a NDGOV login, submit requests and forms to infospo@nd.gov. Contact the OMB State Procurement Office at 701-328-2740 for assistance.

1.5 Purchasing Thresholds

Effective July 1, 2025, OMB and NDUS adopted the purchasing competition thresholds below:

Competition Requirements and Guidelines (Updated 8-1-25)	
<p>Guidelines for Goods, Services, Printing, Information Technology (IT).</p> <p>Follow any agency or institution internal procurement and IT procedures.</p>	<p>STATE: Guidelines, Rules and Laws. Questions: State Procurement 701-328-2740 or infospo@nd.gov. Information Technology: NDIT must review/approve all IT procurements. Initiative Intake required when IT business need is identified. See Guidelines to IT Procurement, Third Party Risk Management (TPRM), IT Review, NDIT Services, Support, Equipment, Software. State Contracts indicate if IT approval is required. Printing: Award to resident ND bidders when practicable (N.D.C.C. § 46-02-15). Agencies may use OMB State Print and Mail and State Contracts regardless of dollar value. Agencies delegated authority for Level 1 Printing. Over \$10,000 submit Purchasing Work Request. Guidelines to Print Procurement.</p> <p>NDUS: See SBHE Policies, NDUS Procedures, Questions: CTS Procurement Request. Information Technology: NDUS IT Procedures, Core Technology Services (CTS); Printing: Award to resident ND bidders when practicable (N.D.C.C. § 46-02-15). See Campus procedures.</p>
Government Sources of Supply	<p>Purchase directly from government sources of supply regardless of dollar amount:</p> <ul style="list-style-type: none"> • State Contracts and State Sources of Supply
Level 1 Micro Purchases Less than \$10,000	<p>Obtain at least one fair and reasonable quote (N.D.C.C. § 54-44.4-11). No Alternate Procurement required. Rotate vendors solicited on an equitable basis. (N.D.A.C. § 4-12-08-02)</p> <ul style="list-style-type: none"> • Use State Purchasing Card when possible. OMB Fiscal Policy 300. • If competition obtained, document solicitation method used, vendors solicited, any amendments, responses received, evaluation, and basis for award.
Level 2 Small Purchases At least \$10,000 but less than \$100,000	<p>Solicit an informal, unsealed bid/quote (RFB/RFQ) or informal Request for Proposal (RFP) from at least three vendors. Document solicitation method used, vendors solicited, any amendments, responses received, evaluation, basis for award. May post to the State Procurement Information website. Alternate Procurement is required if fewer than three vendors are solicited. If only one vendor responds, see N.D.A.C. § 4-12-11-08.</p>
Level 3 Formal Purchases \$100,000 and over	<p>Solicit a formal, sealed Invitation for Bid (IFB) or Request for Proposal (RFP) using the procurement information website. ALL vendors listed under the selected Commodity Code, Sub-Class(es) must be added to the Bidders List and additional vendors may be added. Document solicitation method used, vendors solicited, amendments, responses received, evaluation, and basis for award.</p> <ul style="list-style-type: none"> • Prohibition of Israel Boycott, if applicable. See Contract Template and N.D.C.C. § 54-44.4-15. • Alternate Procurement required if soliciting less than required level of competition.
Major Information Technology Projects	<p>STATE: Effective August 1, 2025, Major IT projects determined by Chief Information Officer: estimated cost \$5 million or more, one year to reach operational status, requires oversight due to potential benefits, risks, public impact, visibility or other significant reason. N.D.C.C. § 54-35-15.2, N.D.C.C. § 54-59-32. OMB State Procurement will procure unless agency receives special delegation (SFN 2566). NDUS: Major IT Projects \$500,000. (N.D.C.C. § 54-35-15.2 (11) and NDUS Procedures 1201.1)</p>
Alternate Procurements \$10,000 & over Noncompetitive and Limited Competitive	<p>Alternate Procurement (AP) request procedures must be used when a state agency or institution plans to obtain less competition than required by the purchasing thresholds. AP requests must provide justification and supporting facts. OMB State Procurement may require a Notice of Intent to Make a Limited or Noncompetitive Purchase to be posted on the procurement information website to determine if AP is appropriate. See Template. (N.D.C.C. § 54-44.4-05, N.D.A.C. § 4-12-09) STATE: Submit Purchasing Work Request to State Procurement and follow IT Procurement Procedures. NDUS: See Campus internal procedures. NDUS APR Template</p>
<p>Fixed Assets Equipment/software \$10,000 or more must be reported as Fixed Assets (Effective 7-1-2025) STATE: See OMB Fiscal Policy 205. NDUS: See NDUS Accounting Manual</p>	
<p>Vendor Pool Contracts must comply with the N.D.C.C. § 54-44.4-13.2 and Vendor Pool Guidelines and any requirements stated in the State Contract Summary or agency contract-specific lower thresholds.</p>	
<p>Secretary of State Registration: Contractors with a Secretary of State registration requirement must be registered before the contract execution and duration of contract period (N.D.C.C. § 54-44.4-09.1).</p>	

1.6 Procurement Officer Certification Training Program

A procurement officer is “an individual duly authorized to enter and administer purchasing contracts and make written determinations with respect thereto and also includes an authorized representative acting within the limits of authority” (N.D.C.C. § [54-44.4-01](#)).

The ND Procurement Officer Certification Program was created in 2002 to provide state employees responsible for purchasing with training based on the type of procurement they conduct (N.D.A.C. § [4-12-03](#)). The Procurement Officer Certification program has three levels matching the competition thresholds. It is recommended that the certification courses be completed in order, but this is not required. Visit the OMB website for [Procurement Officer Certification training](#) registration information.

Procurement Officer Certification Training Level
Level 1: Micro Purchases less than \$10,000
Level 2: Small Purchases at least \$10,000 but less than \$100,000
Level 3: Formal Purchases \$100,000 and over
State Only – Information Technology (IT) Procurement Training during 2025-2026. IT Procurement Training is being developed by NDIT and OMB that will be required for state agency procurement liaisons and agency Level 3 procurement officers making IT purchases valued at \$100,000 and over. Agency procurement officers who complete this training may conduct procurements of IT Projects valued at \$100,000 or more that are not Major IT Projects as determined by NDIT in accordance with law. The agency may submit a purchase request to have OMB conduct the procurement in collaboration with the agency and NDIT. NDIT and OMB will announce the training schedule and requirements.

Procurement Officers must complete the appropriate training level for the estimated dollar value of the purchase, including any renewal and extension options (See Section 5.2). If the actual value exceeds the Procurement Officer’s certification level, the procurement must be overseen by a procurement officer with the appropriate level of Procurement Officer Certification.

State employees who have been assigned a state purchasing card (P-card) must complete a minimum of Level 1 training, excluding state employees who use a purchasing card exclusively for travel expenses. A purchasing card is a method of payment, so a Level 1 certified P-card user may make payments greater than \$10,000 using the P-card.

Level 1 procurement officers may make purchases from government sources of supply greater than \$10,000.

An individual who performs the following tasks must be certified:

- The agency’s lead procurement officer and Procurement Liaison (Minimum of Level 1)
- Purchases from state contracts
- Solicits bids and proposals
- Serves as the point of contact for questions related to a solicitation
- Makes an award determination and issues a notice of intent to award
- Makes determinations required by state procurement laws and rules
- Responds to protests

Individuals do not need certification for the following tasks:

- Purchase from government entities
- Submit a Procurement Work Request
- Develop specifications
- Receive and opens bids or proposals
- Participate in an evaluation process
- Approve purchase orders or purchasing card purchases
- Receive and accept goods and services

- Authorize payments
- Agency heads or their designees who sign purchase orders, contracts, and Alternate Procurement forms

1.7 Delegated Purchase Authority

For state agencies, OMB has statutory authority to delegate purchase authority to state agencies (N.D.C.C. § [54-44.4-03](#), N.D.A.C. § [4-12-03](#)). OMB delegates purchase authority to the head of the agency and institution. Agency heads may delegate purchase authority to employees based upon the procurement certification training completed using the [Delegation of Purchase Authority form](#), SFN 2566. Completing training does not guarantee that an employee will receive delegated purchase authority (N.D.A.C. § [4-12-03](#)).

For NDUS institutions, each NDUS institution shall designate one or more persons to act as the institution's lead procurement officer. Lead procurement officers may delegate purchase authority to employees as needs of the institution dictate (NDUS Procedure [803.1](#)).

The delegation will specify any limits (e.g. dollar limits, specific goods or services). Employees may only make purchases within the scope of their delegated authority. Individuals who have been delegated purchase authority must comply with all applicable laws, rules, guidelines policies and procedures related to procurement.

1.8 OMB Delegated Purchase Authority

For state agencies, effective July 1, 2025, OMB has delegated the following blanket authority to the heads of agencies and institutions subject to procurement laws, rules, and OMB guidelines:

- Goods and Services. Agencies may purchase goods and services, regardless of the dollar amount.
- Printing. Agencies may purchase printing less than \$10,000 subject to the [Guidelines for State Procurement of Printing](#). Submit a Purchase Request for printing \$10,000 and over using the [Procurement Work Request System](#).
- Information Technology (IT).
 - For Information Technology purchases under \$100,000, agencies must comply with the requirements set forth in the [Guidelines for Information Technology Procurement](#), including Initiative Intake, IT Review, and Third Party Risk Management (TPRM) procedures (See. N.D.C.C. § [54-59-09](#)).
 - For IT projects valued at \$100,000 and over, state agencies must additionally comply with N.D.C.C. § [54-59-11.1](#) which requires the state agency to involve NDIT in the planning and study of the project. The state agency must receive a recommendation from NDIT prior to proceeding with any study related to the project.
 - For IT projects determined to be Major IT projects under N.D.C.C. § [54-35-15.2](#), N.D.C.C. § [54-59-11](#), and N.D.C.C. § [54-59-32](#), state agencies do not have authority to purchase Major IT projects, unless a purchase authority delegation is requested and approved by OMB State Procurement Office. The agency procurement officer must meet the procurement officer requirement established pursuant to N.D.C.C. § [54-59-32](#). If the delegation is approved, an OMB state procurement officer will be assigned to provide oversight and participate on the project collaboration team. The agency procurement officer must comply with all requirements of the applicable laws and Guidelines for IT Procurement established by NDIT and OMB..
- Alternate Procurements. Alternate Procurement documentation is not required for micro-purchases valued at less than \$10,000. Alternate Procurement approval is required for purchases \$10,000 and over that deviate from the purchasing threshold competition requirements based on the estimated dollar value. Agencies must submit a [SFN 51403 Alternate Procurement form](#) to the State Procurement Office using the [Procurement Office Work Request System](#). The Alternate Procurement must be approved by the State Procurement Office prior to the purchase.

1.9 OMB Special Delegated Purchase Authority

For state agencies, some types of delegated purchase authority must be approved by OMB.

- Provisional - Employees who have limited training or experience may be granted provisional procurement certification from the OMB State Procurement Office that will be valid for a limited period during which the employee must attend the required certification courses. Until the employee completes the training, a certified procurement officer must oversee the employee's work to ensure compliance with state procurement laws, rules, policies and procedures.
- Non-State Employee – Under special circumstances, an agency may desire to have a non-state employee as their procurement officer. Use the delegation of purchase authority form to request OMB state procurement approval.

Chapter 2: Compliance, Ethics and Violations

2.1 Compliance

The state procurement program is the vehicle through which a significant amount of the state's taxpayer dollars are spent; therefore, the integrity of the state procurement program is paramount. Any improper actions or the appearance of improper actions by state personnel or vendors can compromise that integrity.

Each person with authority to obligate funds through the state procurement process must know and abide by the laws, rules, policies and procedures that govern purchasing practices for their state agency or higher education institution (N.D.A.C. § [4-12-03-04](#)). The integrity of the state procurement program is dependent upon sound procurement practices and procedures that are consistently applied by all employees purchasing on behalf of the state.

2.2 Ethics

Procurement officers represent the State of North Dakota and must maintain courteous and professional relationships with all vendors. It is imperative to avoid any activities, relationships, and communications that in any way diminish, or appear to diminish, fair and impartial treatment of vendors. Do not hesitate to advise the requestor if some aspect of the purchase request is inconsistent with state procurement practices. All public employees and vendors involved in the state procurement process must comply with N.D.A.C. Chapter [4-12-04](#) related to ethics in public procurement related to:

- Good faith actions. (N.D.A.C. § [4-12-04-01](#)) All parties involved in the solicitation, negotiation, performance, and administration of contracts for the state shall act in good faith. Good faith means that all parties to a contract will deal with each other honestly and fairly.
- Emphasis on competition. (N.D.A.C. § [4-12-04-02](#)) Solicitations for bids or proposals will be issued in sufficient time and in a form that will permit the highest practicable degree of full and free competition.
- Handling of information. (N.D.A.C. § [4-12-04-03](#)) Avoid giving information to a prospective bidder that might give them an unfair advantage. Handle public and confidential information according to the state's [open records laws](#). Consult your legal counsel for assistance.
- Conflict of interest. (N.D.A.C. § [4-12-04-04](#)) Avoid even the appearance of a conflict of interest. A conflict of interest occurs when an individual has a personal interest and a job responsibility, and a clear possibility exists that there may be a conflict between the two (e.g. a family member sells the needed equipment). Have another employee make the purchase to avoid an actual or potential conflict of interest. If contracting with someone within one year after they have left public service, consult legal counsel to consider N.D.C.C. §§ [12.1-13-02](#), [12.1-13-03](#). Consult your legal counsel for assistance with potential conflicts of interest.
- Attempt to influence. (N.D.A.C. § [4-12-04-05](#)) Items of nominal value offered by a vendor as a gesture of goodwill or for public relations purposes (e.g. cups, pens, samples) may be accepted. Refuse anything that exceeds a nominal value or will lead to subsequent noncompetitive purchases (e.g. offer of free

equipment contingent upon future purchases). Report to the OMB state procurement manager anyone who tries to influence a procurement decision or offers anything of value that might influence or appear to influence the procurement process.

- Collusion of bidders or offerors. (N.D.A.C. § [4-12-04-06](#)) Collusion is a secret agreement between two or more vendors to circumvent laws and rules regarding competitive bidding, commonly called “price fixing.” For example, two vendors may agree to take turns submitting the lowest priced bid for a good or service. Report suspected collusion to the OMB state procurement manager.
- Nondiscrimination in source selection. (N.D.A.C. § [4-12-04-07](#)) Source selection may not be based upon discrimination because of race, religion, color, national origin, sex, age, pregnancy, parenthood, disability or political affiliation.
- Artificial fragmentation prohibited. (N.D.A.C. § [4-12-04-08](#)) Procurement requirements may not be artificially divided as to constitute a small purchase [N.D.C.C. § [54-44.4-11\(3\)](#)]. Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

Consider the following:

- Similar Products. Consolidate similar products that can be purchased from one type of vendor whenever possible.
- Urgency. Urgent purchases may be separated from routine purchases.
- Predictability. When goods and services are needed on a frequent or reoccurring basis, consider consolidating requirements for a periodic purchase or term contract (i.e. items purchased weekly or monthly, or stored for later use.)

2.3 Violations

Report any violations of procurement laws, rules, policies or procedures to the agency or institution's procurement section, regardless of the cause. Procurement violations discovered by the OMB State Procurement Office will be reported to the employing agency or institution for appropriate disciplinary action. Violation of state laws, rules, policies and procedures may constitute action outside the employee's scope of employment and the employee could incur personal liability and may not be indemnified by the state if they are sued (N.D.A.C. § [4-12-01-06](#)).

“Maverick Spend” is described as buying from vendors without following procurement policy. For example, purchases from a vendor instead of purchasing from an established mandatory government source of supply or state contract.

Chapter 3: State Sources of Supply – Save Time and Money

3.1 State Sources of Supply

Save time and money by using state sources of supply. When a need is identified, check first to see if the good or service is available from a state source of supply. Agencies and institutions can purchase from state sources of supply and government entities without obtaining competition, regardless of the dollar amount. Some sources of supply may be mandatory.

3.2 Agency and Institution Inventory

It is important to understand how things work at your agency. Some agencies and institutions maintain supply rooms or inventory. Contact your agency's procurement section to learn about existing inventory or supply rooms.

3.3 State Contracts

State law requires OMB and Higher Education institutions to establish contracts for goods and services of high common use. (N.D.C.C. §§ [54-44.4-06](#), [54-44.4-13](#))

- [State contracts](#) – Visit the OMB website for state contract information.
 - “EPB” designates Environmentally Preferable/Biobased contracts.
 - “CP” designates Cooperative Purchase contracts that are available to other government entities and public schools.
 - “M” designates contracts that are Mandatory for use by executive branch agencies, excluding Higher Education institutions.
- [State Contract Exemption Request form](#) – State agencies, excluding NDUS institutions, must use the State Contract Exemption Request form, SFN 54202, if there is a mandatory state contract that does not meet the needs of their agency, unless otherwise exempted by OMB written directive. Submit the form to the state contract administrator using the SPO Procurement Work Request System. If the contract exemption is approved, the agency must follow normal procurement procedures.
- Complaint. Please let the State Procurement Office know about problems with state contracts, vendors, defective products, or anything else purchasing related. Submit a complaint using the SPO Work Request System or email to infospo@nd.gov.
- State Vendor Pool Contracts must comply with the N.D.C.C. § [54-44.4-13.2](#) and [Vendor Pool Contract Guidelines](#) and any requirements stated in the State Contract Summary.

3.4 Cooperative Purchasing

“Cooperative Purchasing” is a procurement conducted on behalf of multiple government entities. Purchasing from another entity's contract is a type of cooperative purchase commonly called “piggy-backing.” Cooperative purchasing is another great way to save time and money.

- OMB may establish or participate in cooperative purchasing contracts that are made available to government, tribal agencies, and other eligible entities. (N.D.C.C. §§ [54-44.4-06](#), [54-44.4-13](#), N.D.A.C. § [4-12-02-02](#)). Law requires OMB to make determinations and provide notice to vendors. Submit an [Alternate Procurement Request form](#), SFN 51403, to request using another government entity's contract in lieu of a competitive procurement process.
- Institutions under the jurisdiction of the State Board of Higher Education may enter into cooperative purchasing agreements pursuant to N.D.C.C. § [15-10-28](#). Effective August 1, 2025, an institution of higher education may also establish a cooperative purchasing contract for use limited to other institutions of higher education pursuant to N.D.C.C. § [54-44.4-13](#),
- [1122 “Counterdrug” Program](#). This is a federal cooperative purchasing program. North Dakota government entities with counterdrug responsibilities can use this federal program to make purchases for new supplies and equipment from General Services Administration (GSA) contracts. The State

Procurement Office has been designated as the State Point of Contact (SPOC) to administer the program in North Dakota. Contact infospo@nd.gov or 701-328-2740 for more information.

- Cooperative Purchasing Laws for North Dakota University System entities:
 - Institutions under the jurisdiction of the State Board of Higher Education may enter into cooperative purchasing agreements pursuant to N.D.C.C. § [15-10-28](#).
 - Effective August 1, 2025, an institution of high education may establish a cooperative purchasing contract for use limited to other institutions of higher education pursuant to N.D.C.C. § [54-44.4-13](#).
- Cooperative Purchasing Laws for Local Government:
 - Joint Powers Agreement - N.D.C.C. Chapter [54-40.3](#).
 - City Commissioners – See N.D.C.C. § [40-05-01\(52\)](#) and [40-05-25](#).
 - County Commissioners Board – See N.D.C.C. § [11-11-14 \(4\)](#) and [11-11-69](#).
 - Park Commissioners Board – See N.D.C.C. § [40-49-12](#).
 - School Boards – See N.D.C.C. § [15.1-09-34](#).
- Interstate Library Compact - North Dakota participates in an Interstate Library Compact that includes public and private libraries - See N.D.C.C Chapter [54-24.1](#) Interstate Library Compact.
- North Dakota Department of Transportation (NDDOT) Inspection Agreement – NDDOT has authority to contract with adjoining states and provinces to request or to provide inspection and testing of fabricated products or materials needed for highway construction (N.D.C.C. § [24-02-02.6](#)).

3.5 State Agencies and Government Entities

State agencies and institutions can purchase directly from other government entities (N.D.C.C. § [54-44.4-05 \(2\)\(e\)](#) and N.D.A.C. § [4-12-15](#)). See the Attorney General's Contract [Drafting and Review Manual](#) for an interagency agreement template.

- [Federal Government](#). State agencies and institutions can contract with the federal government to purchase or lease any equipment, supplies, materials or other property without competition. (N.D.C.C. § [21-06-08](#).)
- [State Supply](#). State Supply offers general office supplies and paper products with free delivery to customers within the Capitol complex. State Supply will ship (freight collect) to agencies and institutions anywhere in the state. Contact State Supply at 701-328-3346. See the [State Supply Catalog](#) for product information.
- [State Print and Mail](#). State Print and Mail provides printing, mailing, bindery services, technical advice, layout assistance, graphics design services, and finishing. State Print and Mail is located at the Capitol in Bismarck. Contact State Print and Mail at 701-328-2772 or ssd@nd.gov.
- [OMB State Surplus Property](#). State law requires all agencies and institutions to report their surplus property to OMB. OMB also obtains Federal Surplus Property. OMB State Surplus Property makes surplus state and federal property available to government entities and eligible donees. They also have an electronic recycling program. Call 701-328-9665 or visit the [State Surplus Property website](#) to see a surplus property inventory listing. Visit Team ND Connect to [report surplus property](#).
- [LESO \(Law Enforcement Support Office\) 1033 Program](#). This federal program makes excess military property available to North Dakota government entities whose primary function is enforcement of federal, state and local laws, and whose compensated law enforcement officers have the powers of arrest and apprehension. Section 1033 of the National Defense Authorization Act of 1997 authorizes the Department of Defense to transfer excess military property to state and local law enforcement agencies. Preference is given to counter-drug and counter-terrorism activities. State Surplus Property operates this program.

- [Rough Rider Industries](#). Rough Rider Industries (RRI) is the employability skills training arm of the ND Department of Corrections and Rehabilitation. RRI's motto of "Building quality products while preparing quality people" keeps in line with their mission of teaching and providing the necessary job skills to adults in incarceration which will help these individuals successfully transition back into society. All governmental entities can purchase directly from Rough Rider Industries forgoing the normal procurement process (N.D.C.C. § [12-48-03.1](#)). RRI is located in Bismarck and features statewide sales and delivery of quality furniture and office systems furniture, a full line of seating and upholstery services, dumpsters and metal products, painting, powder coating, and sandblasting services, plastic bag and garbage can liners, indoor/outdoor signs, mattresses, and a full line of custom garment production and sewing services. Call 701-328-6161 or 800-732-0557 or visit www.roughriderindustries.com.
- [Core Technology Services](#). Institutions and entities under the State Board of Higher Education (SBHE) can receive a variety of IT applications and services from Core Technology Services (CTS), including hosting services. Some IT services are mandated or require CTS review prior to purchasing. See [SBHE Policy series 1200](#) for the details. Contact CTS at 701-777-7287 or visit <http://cts.ndus.edu/> for more information.
- [North Dakota Information Technology \(NDIT\)](#). NDIT provides a variety of information technology services, including programming, software development, and website development to state agencies. In certain instances, your agency may be required to use NDIT services. See [Guidelines to IT Procurement](#). Agencies are required to obtain all telecommunication equipment and services through NDIT Communications Division, including telephones and telephone systems (other than cellular phones), automated attendant systems, call sequencers, lines, circuits, all data communication equipment and services, routers, switches, data circuits (ref. N.D.C.C. § [54-59-05](#)). Submit [Service Now](#) requests on-line.
- [Other Government Entities](#). State agencies and institutions can purchase from other government entities within North Dakota and government entities located in other states [N.D.C.C. § [54-44.4-05 \(2\)\(e\)](#)]. Contact your legal counsel for assistance.

3.6 Work Activity Centers

It is in the public's best interest to advance employment opportunities to individuals with disabilities so that those individuals may acquire job skills and training and gain greater independence and quality of life. Work Activity Centers are nonprofit corporations, licensed by the Department of Health and Human Services, organized for the primary purpose of employing and providing rehabilitative activities for individuals with physical disabilities, developmental disabilities, or chronic mental illnesses. State law allows any state entity or political subdivision to contract directly with work activity centers. See the online [Work Activity Center](#) listing of available goods and services. (N.D.C.C. § [25-16-2](#)).

Chapter 4: Specifications

4.1 Purpose of Specifications

If the goods or services you need are not available from a state source of supply, you'll need to conduct a procurement process.

The first step in the procurement process is defining what is needed. A specification is a description of all required physical, design, performance, functional and other characteristics of a good or service the purchasing agency requires and consequently, what a bidder must offer [N.D.C.C. § [54-44.4-06\(1\)](#)]. Well-written specifications ensure the state obtains goods and services that meet quality, performance, and delivery requirements at an economical price.

- Value to the Taxpayer. Ensure goods and services are specified at the proper level of utility and quality for the purpose intended in order to promote overall economy for the purpose intended (N.D.A.C. § [4-12-06-01](#)).
- Quality. Specifications establish the minimum requirements upon which the award will be based; therefore, the desired quality of the good or service must be written into the specifications. Quality is measurable. Consider only the goods or service providers that meet the minimum specifications.
- Specifications Prepared by Non-State Personnel. When someone other than a state employee or official prepares specifications for the state, that person or business entity must be excluded from submitting bids or proposals (N.D.A.C. § [4-12-06-06](#)).

4.2 Brand-Name Specifications – Restrictive Specifications

Specifications should encourage competition and may not be restrictive (N.D.A.C. § [4-12-06-02](#)). A specification is restrictive when the specifications, requirements, or conditions have the effect of limiting responses to only one brand, make, source, or service provider and have no reasonable relation to the actual needs of the purchasing agency.

Specification that includes a brand name must invite bidders to offer comparable products. If you use a brand name, say "Or equal" or "Equivalent to." If a brand offered as an equivalent is rejected, notify the bidder of the reason (ref. N.D.C.C. § [44-08-01](#), N.D.A.C. § [4-12-06-03](#)).

Sometimes you do need a particular brand. For a Level 1 purchase, no [Alternate Procurement](#) is required if a certain brand is required. Higher Education institutions see NDUS Procedure [803.1](#).

4.3 Green Purchasing

State law has requirements related to the specification of environmentally preferable products (EPP). These are products that have reduced negative effect or increased positive effect on human health and the environment, when compared with competing products that serve the same purpose. See the [Guidelines to Environmentally Preferable Procurement](#) for more information.

- Environmentally Preferable Products and Soybean-based Ink. (N.D.C.C. § [54-44.4-07](#)). Procurement of environmentally preferable products, such as soybean-based ink for newsprint, recycled paper products, and bio-based products. When practicable, specifications for purchasing newsprint printing services should specify the use of soybean-based ink.
- Recycled Paper and Paper Products. (N.D.C.C. § [54-44.4-08](#)). When practicable, OMB and any state agency or institution that has authority to purchase paper and paper products should specify at least at least 25% recycled material. .

4.4 Writing Specifications

As a Procurement Officer, you are tasked with obtaining goods and services for your agency or institution at the needed quality, quantity, place, time and price. Communicate with the end-user to make sure you fully understand the requirements, so you can write effective specifications.

- Avoid “mushy” language – If something is required, use “must, shall, or will.” Use “should or may” to express something that is not mandatory.
- What – Provide a detailed description of “what” you need to purchase.
 - If you are purchasing supplies or equipment, describe the purpose, physical attributes, features, and functionality. Be sure to include any required installation, training, or maintenance.
 - A specification for services is commonly called a “Scope of Work” or “Statement of Work.” If you are purchasing services, provide a detailed description of the work. Describe the tasks that need to be accomplished and any end products or “deliverables” that the contractor must provide to you. Describe any goods or services being supplied by the state.
- Who – Who must perform the work? Describe any requirements that apply to the contractor. Does the contractor need to have any special education, qualifications, experience requirements, or licenses? Will the contractor need to obtain any licenses or permits? Will the contractor’s employees need to complete background checks?
- Where – Where do the goods need to be delivered? or services performed? Provide the physical address and zip code for delivery. Provide any special instructions, such as availability of a loading dock or off-loading equipment.
- When – When do the goods or services need to be received by your agency? Provide a required delivery date. What times of the day can delivery be made?

4.5 Equipment

When buying equipment, you have many options that can be incorporated into your specifications.

- Trade-In Equipment. When replacing equipment, you may trade in your existing equipment. The specifications need to include detailed information about the equipment being offered. If possible, allow vendors an opportunity to inspect the equipment. Request prices with and without a trade-in and provide that award may be made either way. Compare the trade-in offers with the estimated outright sale price to determine which is most advantageous. You do not need approval from the OMB State Surplus Property to trade-in your equipment. However, OMB State Surplus Property can help you determine if the trade-in allowance is reasonable. Contact your agency’s asset manager if the equipment is capitalized.
- Used Equipment. If you are purchasing used equipment, you may indicate a desirable age range, condition, and acceptable amount of hours or mileage. Be sure to require that the used equipment must pass your inspection or testing.
- Consumables. Are you purchasing something that will need parts or supplies on a recurring basis? Your specification and solicitation can include consumables if you want to establish a source for on-going consumable supplies.
- Service and Maintenance. Your specifications should include everything that is needed, including any installation, training, and minimum warranty. If you are buying equipment that will need occasional service or a maintenance agreement, those can be included in the specifications. If you will need the contractor to provide service after the sale, your specifications can include a maintenance agreement.

4.6 Lease vs. Purchase Analysis

The 69th Legislative Assembly repealed N.D.C.C. § [54-27-21.1](#) which was the law requiring a lease versus purchase analysis, pursuant to [House Bill 1081](#). Lease versus purchase analysis is no longer required effective March 18, 2025. [OMB Fiscal Policy 312](#) was also repealed. N.D.A.C. § [4-12-06-05](#) will up updated.

4.7 Specification for Services

Sometimes you may need to purchase services. “Services” means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance [ref. N.D.C.C § [54-44.4-01\(5\)](#)].

Professional services require the individual rendering the service to exercise professional judgment. That individual’s special knowledge, education, skills, qualifications, and experience are of primary importance, such as accountants, physicians, and consultants [ref. N.D.C.C. § [54-44.4-01\(3\)](#)]. Competitive proposals or multi-step solicitations are normally used.

A specification for services is commonly called the “scope of work” or “statement of work.” Writing the scope of work is one of the most important and difficult steps in preparing a solicitation for services. Prospective service providers will use the scope of work to prepare a technical proposal and cost proposal. The agency or institution will use the scope of work to evaluate those bids or proposals, select a service provider, and ensure the service provider completes all the required work in a satisfactory manner.

- The scope of work can describe what the contractor must do, such as specific tasks and deliverables and describe any directives the contractor must follow.
- The scope of work can also describe what the contractor must be, such as qualifications, experience, and licenses.

4.8 Services - Independent Contractor vs. Employee Determination

If you are purchasing services, remember that state agencies and institutions cannot hire employees through the procurement process. The procurement process is used to acquire the services of an independent contractor.

As a Procurement Officer for your agency or institution, you should consult legal counsel to help you if questions arise. Specifically, contact legal counsel if your agency is planning to contract with a current state employee or former state employee within one year after they left state employment.

If the services required result in an employer/employee relationship, hire the person through the personnel system, not the procurement system. For more information visit the [North Dakota Department of Labor and Human Rights](#) website.

Here are some of the indicators that an employer/employee relationship may exist:

- The person is subject to the control of the state, not only as to what will be done but when, where, and how it will be done as opposed to allowing the individual to set their own work schedule.
- The state has the right to discharge the person or the person has the right to terminate services without incurring liability.
- The state furnishes the individual with tools, equipment, and a place to work.
- The individual currently works for the state as an employee in the same field as the contract services.
- The state currently pays employees to perform essentially the same duties to be performed by the contractor.

The following conditions are indicators that people are independent contractors:

- They are subject to control or direction of the state only as to the result to be accomplished and the work to be done, not as to the means and methods for accomplishing the result.
- They are in business providing a service to the public from which they may derive a profit or suffer a loss.
- They are in business to provide the same or similar services to the general public.

4.9 Temporary Employment Agencies

Temporary employment agencies are independent contractors that provide staffing services to public and private employers. The occasional use of temporary employment contracts does not create an employer/employee relationship, since the workers are employed by the temporary employment agency, not by the state. Examples include: coverage for an employee on medical leave; working on a short-term project. Contracts with temporary staffing agencies are subject to bidding requirements.

4.10 Contract Terms and Conditions

Planning the contract before issuing a solicitation is very important. The solicitation will result in the selection of a vendor with whom the state will enter into a formal, written contract. Procurement rules require that the solicitation contain all the terms and conditions that will be incorporated into the contract. Consider the scope, value and risk of the planned purchase to select the appropriate contract terms and conditions, such as:

- Contract term (duration) and any provisions for renewals and extensions
- Non-appropriation clause if the contract extends beyond current biennium
- Provisions for price adjustments
- Termination provisions

Visit the OMB State Procurement Office website for [solicitation templates](#). Contact your agency's legal counsel if you make any changes to any standard terms and conditions.

4.11 Indemnification and Insurance Requirements

Contractual risk is based upon circumstances, not the dollar value of the purchase. For example, a contract to clean the windows in the Capitol might have a nominal cost, but involve substantial potential risk.

Service contracts will normally include indemnification and insurance requirements. "Indemnification" is a term that addresses who is responsible for risks under the contract. Requiring "Insurance" ensures the contractor has the financial resources to cover potential risks. Contact your agency or institution lead procurement officer or the OMB Risk Management Office at 701-328-7580 for assistance. Visit the OMB website for the ["Guidelines to Managing Contractual Risk."](#)

4.12 Qualified Products List (N.D.A.C. § [4-12-06-04](#))

1. If testing or examination of the commodities or services is desirable or necessary to best satisfy state requirements, a qualified products list may be developed with approval of the state procurement office.
2. When developing a qualified products list, a representative group of vendors must be solicited, in writing, to submit products for testing and examination to determine acceptability for inclusion on the qualified products list.
3. Inclusion on a qualified products list must be based on results of tests or examinations conducted in accordance with state requirements and the product specification.
4. The existence of prequalified products on a qualified products list does not constitute prequalification of any prospective vendor.

4.13 Request for Information (N.D.A.C. § [4-12-06-07](#))

A noncompetitive solicitation may be issued to obtain information, data, comments, or reactions from possible vendors preceding a solicitation for bids or proposals or a multistep bidding procedure. Information obtained as a result of a request for information is subject to the state open records law.

4.14 Specification Meeting (N.D.A.C. § [4-12-06-08](#))

Prior to issuing a solicitation, the procurement officer may hold a specification meeting to seek information necessary to prepare a suitable specification and competitive solicitation. The procurement officer will provide adequate notice to potential bidders. The meeting is open to the public. Attendance may not be made mandatory as a condition for submitting a bid or proposal.

4.15 Market Research and Demonstrations

Market research is simply research to learn before you make a purchase. Market research includes, but is not limited to:

- Discussions with vendors who sell what you need
- Demonstrations of potential solutions, equipment or services
- Research through subject matter experts who have knowledge of the industry

Market research is a best practice as you prepare for a procurement. You should contact a representative number of potential bidders. Market research does not replace the procurement process. Use market research to help you determine your requirements. Use the procurement process to evaluate competing products and service providers to make an award decision. Be careful not to give vendors advance information that would give them an unfair advantage in the procurement process.

Chapter 5: Procurement Procedures

Level 1 Micro Purchases Less than \$10,000	Obtain at least one fair and reasonable quote (N.D.C.C. § 54-44.4-11). No Alternate Procurement required. Rotate vendors solicited on an equitable basis. (N.D.A.C. § 4-12-08-02) <ul style="list-style-type: none"> • Use State Purchasing Card when possible. OMB Fiscal Policy 300. • If competition obtained, document solicitation method used, vendors solicited, any amendments, responses received, evaluation, and basis for award.
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5.1 Level 1 Micro Purchases

If the good or service you need is not available from a state source of supply and you know the estimated price is under \$10,000, then you are ready to make a Level 1 purchase. Under state law, “Small purchases must be made with competition practicable under the circumstances”. Purchases under \$10,000 have been determined to be extremely low-value purchases. Micro purchases are too small to justify the time and expense of soliciting competition. Procurement rules allow for these purchases to be made using adequate procedures to ensure goods and services are obtained at a fair and reasonable price, which may include soliciting only one bid or proposal. The terms “bids” or “quotes” are used interchangeably ([N.D.C.C. § 54-44.4-11](#), [N.D.A.C. § 4-12-08-02](#)).

5.2 Estimated Purchase Price

The estimated price is needed to verify that adequate funds are available, determine what level of competition is required, and ensure the procurement officer has delegated purchase authority to make the purchase. Estimated price may be based upon previous purchases, market research, a published price list, or asking a vendor for a budgetary estimate. Consider the following:

- Goods. The entire amount of the purchase price including all shipping and handling, and all other related charges, such as installation or maintenance agreements. Generally, shipping costs can be estimated at 15%.
- Leases. The entire amount of an equipment lease is based upon all payments over the lease term, including any options for extension or renewals. For example, the value of a 24-month equipment lease with monthly payments of \$400 is \$9,600.
- Services. The entire amount of a service contract includes the initial term and all possible extension or renewal options. For example, the value of a one-year contract estimated at \$5,000 per year with three renewal options is \$20,000.
- Artificial Fragmentation Prohibited ([N.D.A.C. § 4-12-04-08](#)). Procurement requirements may not be artificially divided as to constitute a small purchase [[N.D.C.C. § 54-44.4-11\(3\)](#)]. Artificial fragmentation means splitting purchase requirements or splitting an invoice to stay below a certain dollar level to avoid competition or stay within delegated authority limits.

5.3 Recurring Purchases – Rotating Vendors

If you need to purchase goods or services on a recurring basis, you should consider whether or not establishing a contract would be advantageous. Recurring purchases with cumulative significant dollar spend are appropriate for term contracts.

It is appropriate to handle infrequent, small dollar purchases as independent transactions, even if the annual total is \$10,000 or more. For example, you purchase “Widgets” in January for \$5,000 and purchase “Widgets” again in September for \$5,000. It is appropriate to treat both purchases as a Level 1 procurement.

Under Level 1 procedures, procurement officers must rotate vendors solicited on an equitable basis (N.D.A.C. § [4-12-08-02](#)). If there are multiple vendors selling what you need to purchase, simply rotate the vendors you contact to obtain one fair and reasonable quote. For example, if there are three lumber yards in your community, try to spread your one fair and reasonable quote Level 1 purchases between the three vendors.

The requirement to rotate vendors applies when you only obtain one fair and reasonable quote. If you get quotes from multiple vendors for a Level 1 purchase, simply award to the lowest bidder. It is acceptable if one vendor repeatedly is the low bidder receiving the award in a competitive procurement. If there is only one known supplier, you should consider the frequency and dollar volume of your purchases to determine if you should find other suppliers or establish a contract.

5.4 Selecting a Bidder

After you have developed the specifications, you need to select bidders from whom you can solicit a quote from for your Level 1 purchase. You have many options, including:

- State Bidders List. OMB is required to maintain a Bidders List. You can find the bidders list on the [State Procurement Online \(SPO\) system](#). You are not required to use the Bidders List for purchases under \$10,000, but it is a good source for finding potential bidders.
- Printing Preference. If you are purchasing printing, you must comply with the North Dakota state law that requires all public printing, binding, and blank book manufacturing must be awarded to a resident North Dakota bidder (N.D.C.C. § [44-08-02](#)). Get quotes for printing from North Dakota bidders, unless it is determined to be not practicable (N.D.A.C. § [4-12-16-01](#)). See the [Guidelines for State Procurement of Printing](#).
- ND Secretary of State Registration. North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. It is always preferable to have a bidder register with the Secretary of State, as it provides much greater legal protection for the state. See the [Guidelines to Vendor Registration](#) to determine if registration is required. Check the ND Secretary of State First Stop [Business Records Search](#) to see if a vendor is registered. If Secretary of State registration is required, N.D.C.C. § [54-44.4-09.1](#) requires the person/business to be registered before contract execution.
- Contractors, Professional and Occupational Licenses. Certain types of businesses and individuals in certain professions or occupations are subject to licensing or registration with a state regulatory board or agency. If you are purchasing something that requires the contractor to have a North Dakota license, permit, or registration, be sure to obtain proof that they have complied with this requirement before award. Visit the [NDSU Extension Service website](#) for a list of licenses required by the state.
- List of Debarred and Suspended Vendors. OMB State Procurement maintains a list of vendors who have been debarred or suspended from doing business with the State. Do not get quotes from suspended or debarred vendors (N.D.A.C. § [4-12-05](#)). Some agencies and institutions also have requirements to check the Federal Debarred vendor list, so check your internal procurement policies.

5.5 Getting One Quote

After you identify a potential bidder, you are ready to get a quote. You can get a quote using a variety of methods:

- Stores. You can physically go to a store and get a quote. “Time is money,” so consider how much time it will take you to go to the store to make the purchase.

- Telephone quote. You can contact the bidder by phone and describe what you need. Be sure to tell them that the price needs to include all shipping and handling. You can use the [Informal Bid-Telephone Quote](#) form, SFN 2706 to document the telephone bid. Bidders will normally respond by telephone unless you ask for a written quote.
- Email or Fax Quote. You can contact vendors by email or fax. You can put the requirements into the body of the fax or email. The OMB website also has a [Request for Quote template](#) you can use to solicit a vendor.
- Internet Quote. You can obtain a quote from an online website.
- “Click Through” Agreements: Procurement Officers must be aware of the laws that apply to “click through agreements (N.D.C.C. § [32-12.2-15](#)). Most websites have “click through” agreements. You must have terms and conditions reviewed by your legal counsel before agreeing to any terms and conditions. Under this law, there is authority to make a purchase when the contractual terms are inconsistent with law, if the agency, in consultation with the attorney general's office and the office of management and budget, determines the purchase poses no reasonable risk that an improper contractual obligation will be imposed against the agency or of loss that cannot be limited under this section given the nature of the product's intended use, including data and system security. Effective August 1, products costing less than \$20,000 may be considered routine or standardized products.

5.6 Questions and Solicitation Amendments

After you ask a vendor for a quote, they may have questions. You should respond to vendor questions in a timely manner. Sometimes vendor questions may make you realize a mistake has been made. If you need to change your requirements, you need to amend your solicitation.

If you contacted vendors by phone or in person, you can call them to make the change. If you requested a written quote in an email, you can make the change in a subsequent email.

If you used a Request for Quote template, you can either send a revised Request for Quote or send a Solicitation Amendment. Visit [Team ND Connect Procurement](#) for templates.

5.7 Receiving Quotes

The method you used to contact vendors will determine how you receive quotes. You can review a quote as soon as you receive it. If you contacted multiple vendors, you can evaluate and award when you receive responses from all vendors. If you set a deadline and a vendor doesn't respond in time, the quote is late. Vendors cannot change their responses after the deadline.

Sometimes you contact vendors, and they respond with a “no bid.” Document all the vendors you contacted, including the vendors that declined to bid.

5.8 Evaluating Quotes

You'll need to evaluate the quotes received to make sure the product or service offered meets your requirements.

- “Responsive Bidder” means a firm or person whose response fully meets all the requirements of the solicitation. Responses that are submitted late or don't meet specifications must be rejected. Visit the OMB website for a [Rejection Letter template](#). Use this template to tell bidders why their response was rejected.
- “Responsible Bidder” means a firm or person who is capable of performing the work. If you suspect a bidder is not responsible, see N.D.A.C. § [4-12-11-04](#).

5.9 Fair and Reasonable Price

Use adequate procedures to ensure goods and services are obtained at a fair and reasonable price. The fair and reasonable price can be based on previous purchases, market research, a published price list, or by simply soliciting more than one vendor.

If the quote is fair and reasonable, you can award to the bidder. Keep documentation of the quote in your procurement file.

5.10 Bids \$10,000 or Over

If you receive bids or proposals priced at \$10,000 or more:

- You can defer the purchase to a Level 2 Procurement Officer to get three quotes or proposals. They can use the first quote as one of the three needed quotes, or they can start over.
- You can get multiple quotes. If you received at least one bid meeting specifications under \$10,000, and other bids over \$10,000, this is still a Level 1 purchase. You can make an award to the “low bidder meeting specs” under \$10,000.
- If you were soliciting multiple proposals and the proposal with the highest evaluation score is priced \$10,000 or more, you must obtain the level of competition required for the dollar value. If the proposal with the highest evaluation score is under \$10,000, it is a Level 1 purchase and you can make the award.

If all bids or proposals received are \$10,000 or over, this is not a Level 1 procurement. You must obtain the level of competition required for the dollar value. If it is a Level 2 purchase, the procurement must be done by a Procurement Officer with Level 2 certification training. At least two more vendors should be contacted to submit bids or proposals.

5.11 Getting Multiple Quotes/Bids

You can get competition for a Level 1 purchase. Some agencies may have internal policies that require competition at lower levels.

A request for quote is a procurement strategy for purchasing goods and services that are suitable for award to the lowest priced bidder whose bid meets the specification or the scope of work. Bidding is appropriate for goods, equipment, and non-professional services. If you get one quote and the price seems too high, you can get another quote. It is also appropriate to solicit more than one quote if you have multiple bidders in the area. “When in doubt, bid it out.”

The Team ND Connect website has [templates](#) you can customize to request competitive bids or proposals.

Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

If you are getting quotes, you must award to the bidder that meets your specifications and has the lowest price (“Low bidder meeting spec”). If a bidder offers you something that doesn’t meet your specification, you must reject their bid.

5.12 Getting Multiple Proposals

Sometimes you are purchasing equipment, software or services for which it is difficult to write detailed specifications, or you would like to have an evaluation process.

Competitive proposals are a procurement strategy in which award is made to the responsible vendor whose proposal is determined to be most advantageous based upon cost and other evaluation criteria. The related weight of cost and the other evaluation criteria must be stated in the solicitation.

Provide the same information to all bidders. Give bidders a deadline for responding. Do not share the price information with other bidders until after you have made the award.

The request for proposal process allows you to have discussions with vendors. You can also have vendors make changes to their proposals by requesting best and final offers. The request for proposal process is appropriate for equipment, information technology, and professional services.

Visit the OMB State Procurement website for checklists and templates to help you conduct a competitive request for proposal process.

5.13 North Dakota Preference Laws

The term "preference" as it relates to government purchasing is an advantage in consideration for award of a contract given to particular types of vendors.

- The "reciprocal preference" law (N.D.C.C. § [44-08-01](#)) was repealed in 2023.
- A bidder is "resident" if it maintains a bona fide place of business within North Dakota for at least one year prior to the date the contract was awarded (N.D.C.C. § [44-08-02](#)).

North Dakota has preference laws for certain commodities and services.

- Coal. N.D.C.C. § [48-05-02.1](#)
- Food. 2003 Senate Concurrent Resolution No. 4018
- Environmentally Preferable Products – Bio-based Products. N.D.C.C. § [54-44.4-07](#)
- Paper, Recycled. N.D.C.C. § [54-44.4-08](#)
- Printing. Printing must be awarded to resident North Dakota bidders, pursuant to N.D.C.C. § [46-02-15](#) and [Guidelines for State Procurement of Printing](#).
- Soybean-based Ink. N.D.C.C. § [54-44.4-07](#)
- American Flags. N.D.C.C. § [44-08-22](#)
- Direct Manufacturer Motor Vehicle Sales Prohibited. N.D.C.C. § [39-22-25](#)
- Work Activity Centers. N.D.C.C. § [25-16.02](#)
- Work Activity Centers - Construction Stakes. N.D.C.C. § [25-16.2-02](#)

See the OMB [Guidelines to North Dakota Purchasing Preference Laws](#) for more information

5.14 Protests and Appeals

A vendor may protest a solicitation or award decision in accordance with N.D.C.C. § [54-44.4-12](#) and N.D.A.C. Chapter [4-12-14](#).

If you are making a Level 1 purchase by obtaining one fair and reasonable quote, a protest is unlikely.

If you conduct a competitive procurement process by obtaining multiple bids/quotes or request proposals from multiple vendors, vendors may disagree with your solicitation or award decision and submit a protest.

If you receive a protest, you must follow the laws and rules related to responding to protests. Contact your agency's lead procurement officer and legal counsel for assistance. See the OMB State Procurement Office website for a [protest response](#) template.

The protestor may file an appeal of the decision rendered by the procurement officer in writing within seven calendar days after the protest receives the decision. Appeals of state agency protests must be filed with the OMB State Procurement Office and appeals of North Dakota University System institutions must be filed in accordance with State Board of High Education policies and North Dakota University System procedures.

5.15 Secretary of State Registration Requirements

Law requires that person or business that has a registration requirement with the North Dakota Secretary of State must be registered before the contract execution and the registration must remain active for the duration of the contract period (N.D.C.C. § [54-44.4-09.1](#)). North Dakota Secretary of State business registration requirements are based upon the circumstances of the procurement, not the dollar value. Secretary of State laws apply to any entity transacting business in North Dakota, and doing business with properly registered vendors provides much greater legal protection for the state. See the [Guidelines to Vendor Registration](#) to determine if registration is required. Check the ND Secretary of State First Stop [Business Records Search](#) to see if a vendor is registered.

5.16 Purchases \$10,000 and Over Competition Requirements

The competition matrix provides information and links to the laws and administration rules that apply to Level 2 Small Purchases, Level 3 Formal Purchases, and Major Information Technology Purchases. See [ND Team Connect Templates](#) page for documents for use when creating Level 2, Level 3, and Major IT Project solicitations. Template instructions provide procedures for conducting these solicitations.

Level 2 Small Purchases At least \$10,000 but less than \$100,000	Solicit an informal, unsealed bid/quote (RFB/RFQ) or informal Request for Proposal (RFP) from at least three vendors. Document solicitation method used, vendors solicited, any amendments, responses received, evaluation, basis for award. May post to the State Procurement Information website. Alternate Procurement is required if fewer than three vendors are solicited. If only one vendor responds, see N.D.A.C. § 4-12-11-08 .
Level 3 Formal Purchases \$100,000 and over	Solicit a formal, sealed Invitation for Bid (IFB) or Request for Proposal (RFP) using the procurement information website. ALL vendors listed under the selected Commodity Code, Sub-Class(es) must be added to the Bidders List and additional vendors may be added. Document solicitation method used, vendors solicited, amendments, responses received, evaluation, and basis for award. <ul style="list-style-type: none">• Prohibition of Israel Boycott, if applicable. See Contract Template and N.D.C.C. § 54-44.4-15.• Alternate Procurement required if soliciting less than required level of competition.
Major Information Technology Projects	STATE: Thru July 31, 2025: Major IT Projects \$500,000. (N.D.C.C. § 54-59-32). Effective August 1, 2025, the definition of Major IT changes to \$5 million and other criteria established in N.D.C.C. § 54-35-15.2 . OMB State Procurement will procure unless agency receives special delegation (SFN 2566). NDUS: Major IT Projects \$500,000. (N.D.C.C. § 54-35-15.2 (11)) and NDUS Procedures 1201.1)

5.17 Alternate Procurement Procedures

An Alternate Procurement must be completed when an agency or institution is soliciting less competition than is required based upon the estimated dollar amount of the purchase. See [ND Team Connect Alternate Procurement](#) page for additional information and the Alternate Procurement Form. State agencies must submit the Alternate Procurement to the OMB State Procurement Office. NDUS institutions must follow SBHE policies, NDUS procedures, and their campus internal procedures.

Alternate Procurements \$10,000 & over Noncompetitive and Limited Competitive	Alternate Procurement (AP) request procedures must be used when a state agency or institution plans to obtain less competition than required by the purchasing thresholds. AP requests must provide justification and supporting facts. OMB State Procurement may require a Notice of Intent to Make a Limited or Noncompetitive Purchase to be posted on the procurement information website to determine if AP is appropriate. See Template . (N.D.C.C. § 54-44.4-05 , N.D.A.C. § 4-12-09) STATE: Submit Purchasing Work Request to State Procurement and follow IT Procurement Procedures . NDUS: See Campus internal procedures. NDUS APR Template
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Chapter 6: Making the Award

6.1 Making the Award

You are ready to make the purchase or “award” a contract after you confirm the goods or services the bidder is offering meet your specification and the price is fair and reasonable. You have several options for making the purchase and paying the vendor. Check with your agency or institution Lead Procurement Officer for internal procedures related to methods of making the award.

- [State Purchasing Card Program](#) is intended to save time and money. Information about this program is found on the [OMB State Purchasing Card Program](#) website page.

6.2 Purchase Orders

A purchase order is a written document to a vendor that formalizes all the details of a purchase transaction, such as a description of the requested item, price, and delivery date.

- [PeopleSoft/Oracle Purchase Order \(PO\) system](#). OMB and NDUS have a PeopleSoft/Oracle Purchase Order system. This system is integrated with the PeopleSoft/Oracle Receiving and Accounts Payable applications, so receiving and payment can be done on-line. Contact your procurement or finance department. Visit the [Team ND Connect Purchase Order Page](#) for more information.
- [Field Purchase Order, SFN 53329](#). Field purchase orders are padded into books and can be handwritten. Purchase the field purchase order books from [OMB State Supply](#).
- [Terms and Conditions](#). Terms and conditions are usually contained in the bid document and incorporated into the Purchase Order by reference. Simply type on the purchase order, “The attached terms and conditions of (Solicitation Type, Number, and Date) are incorporated and made part of this purchase order by reference.”

6.3 Contracts Using Attorney General Sample Contract

The Office of the Attorney General [Contract Drafting and Review Manual](#) includes contract templates. Visit the OMB website to obtain [templates](#) that you can customize for your purchase.

A contract will be issued for most service contracts and term contracts. Use the Office of the Attorney General Contract and Review Manual and Sample Service Contract to create a contract appropriate for the good or service being procured. Ensure the final contract contains the statement of work agreed upon between the state and the successful vendor and incorporate all the terms and conditions from the solicitation. Be sure to have the agency’s legal counsel review any changes to the standard clauses.

6.4 Vendor-Provided Contracts

If a vendor gives you a contract or agreement, be sure to have legal counsel review the document before you sign it. Contracts are usually written to protect the party that drafted the contract. The vendor contract or agreement may contain “terms and conditions” that the state cannot legally agree to accept. It is imperative to make modifications to these contracts to ensure the state is properly protected.

Chapter 7: Receiving and Closeout

7.1 Receiving, Inspection, and Acceptance

The procurement officer’s role in the procurement process should continue until the goods are delivered or the services have been performed. Purchase order or contract administration, which includes receiving, inspecting, acceptance, problem resolution, and payment is very important. The best specifications and broadest competition are wasted efforts if the state pays for goods received or services rendered that do not meet the requirements of the purchase order or contract.

- **Follow-up.** Ensure outstanding purchase orders and contracts are monitored to prevent missed deadlines, especially if the good or service is urgently needed. Document all communications with a vendor about outstanding orders. If your request needs an earlier delivery than originally agreed, you may need to authorize special shipping (usually at an additional cost).
- **Deliveries.** Delivery is expected at the time agreed upon when the order was placed. Although early deliveries are usually welcomed, an early delivery may be rejected if the delivery imposes a hardship for the agency. If a delivery is late, send a written notice to the contractor and require a written response explaining why delivery is late and when delivery can be expected. If the vendor's explanation and alternate delivery time are acceptable, document the file and communicate the new delivery date to the end-user. Contact your agency's procurement section for assistance.
- **Receiving, Inspection, and Acceptance.** When goods are delivered or services rendered, your agency must insure that there is an inspection process. The goods or services need to be compared to your agency's requirements. Ensure that your agency received what was expected before you make payment. Inspect goods and services as soon as possible after delivery to ensure compliance with the specifications. Promptly notify the vendor if the good or service fails to meet specifications or damaged goods are received.

7.2 Inventory – Fixed Asset Reporting

Effective July 1, 2025, equipment and software valued at \$10,000 and over must be reported as fixed assets. N.D.C.C. § 54-27-21 was repealed in 2025. See [OMB Fiscal Policy 205](#). Higher Education institutions see [NDUS Procedure 804 Equipment and Other Leases](#) and the Major Equipment section of the NDUS Accounting Manual. NDUS institutions should also review their own internal policies or procedures as applicable. Contact your agency or institution's asset manager.

7.3 Amendments and Cancellations

Sometimes changes or mistakes are discovered after you have made an award. On occasion, administrative errors, omissions, or changing circumstances may create a need to cancel or amend a purchase order or contract after it has been issued.

- You cannot allow a change that would change the award decision (N.D.A.C. § [4-12-10-06](#))
- You cannot amend a contract to avoid competition requirements. (N.D.A.C. § [4-12-13](#))

See the OMB website for a [Sample Contract Amendment](#) template. Administrative Rules, [N.D.A.C. Chapter 4-12-10](#), address mistakes after award. Contact your Lead Procurement Officer for assistance.

7.4 Contract Amendment Exception Approval

The alternate procurement form has a provision for contract amendment exceptions. A contract amendment exception may be appropriate:

- If you conducted the level of competition required and there is an unavoidable change that causes the purchase price to exceed the threshold. For example, you conducted a Level 1 procurement and had to amend the contract resulting in the contract exceeding \$10,000.
- If a contract has no remaining extensions or renewals, but unanticipated circumstances make extension of the contract period necessary.

State agencies must obtain an [Alternate Procurement](#) approval from the OMB State Procurement Office, so procurement officers should contact your lead procurement officer. High Education institutions must follow [NDUS Procedures](#) related to Alternate Procurements and Higher Education campus internal procedures.

7.5 Contract Problems

If the goods do not meet specifications or the services were not rendered satisfactorily, notify the contractor immediately. Demand corrective action in writing. Be sure to document all your communication with the vendor.

See the OMB website for a [Default Letter](#) template. Remember, don't tolerate poor performance – do something about it!

Please let the State Procurement Office know about problems with state contracts, vendors, defective products, or anything else purchasing related. Submit a complaint using the SPO Work Request System or email to infospo@nd.gov. OMB can suspend or debar vendors from the State Bidders List (N.D.A.C. § [4-12-05](#)).

7.6 Payment

After you have received and inspected the goods or services, you will need to make payment to the vendor. Be sure vendors receive payment in a timely manner.

- State Purchasing Card. Use the state purchasing card whenever possible. The state purchasing card saves time and money because the vendor is paid by the credit card company. Agencies and institutions avoid the work of processing payments by ACH or check. The State also receives rebates from the purchasing card provider. Visit the OMB Financial website for more information about the [Purchasing Card Program](#).
- Supplier Registration/IRS Form W-9. If you are paying by check or Automated Clearing House (ACH) vendors may need to be set up as Suppliers in PeopleSoft. OMB [Fiscal Policy 110](#) requires all suppliers to complete an IRS Form W-9. Higher Education institutions should check with their Finance office. For state agencies, vendors can complete an online registration: See the OMB website [Vendor Payments](#). NDUS Institutions check with your Finance Office for Supplier Registration requirements and procedures.
- IRS 1099 Reporting. Most services over \$600 require IRS 1099 reporting. Check with your agency finance department. See the OMB [Fiscal Policy 110](#) and the website [1099 Reporting](#).
- Advanced Payments. Generally, the state does not make advanced payments for goods and services. Advanced payment is appropriate in some circumstances, such as a subscriptions, postage, and equipment rental.
- Vouchers. On occasion, purchases are made without using a purchasing card, purchase order, or contract. For example, maintenance is required on office equipment, and the service provider leaves an invoice. Agencies should develop internal procedures for these situations. These expenses can be paid on a voucher. Contact your Finance Department or OMB Fiscal Division for assistance.

7.7 Open Record Requests

Vendors commonly ask for information about contract awards, evaluations, and request copies of other vendor's bids and proposals.

- Bids become open records after the deadline for receipt. (N.D.C.C. § [44-04-18.4](#), [54-44.4-05](#))
- Proposals become open records upon notice of award. (N.D.C.C. § [44-04-18.4](#), [54-44.4-10](#))

You also must be careful not to release information that is confidential. Contact your legal counsel if you receive an open records request for a bid or proposals that a vendor claims to be confidential.

7.8 Documentation

Although Level 1 purchases are low dollar value, you still need to document the procurement process used. You do not need to document that you determined the price is fair and reasonable.

Each procurement transaction must be adequately documented for audit and public record purposes. All required procurement documentation must be maintained in accordance with governing records retention requirements. (NDUS – see [SBHE 803.1](#) Purchasing)

Under the state Records Retention requirements, you must maintain documentation of the transaction. The records retention requirements vary depending upon the award and payment method selected. Check your agency or institution Records Retention schedule. Here are some examples for state agencies:

- Purchase Card Transaction have a records retention of after current fiscal year plus 3 years.
- Purchase Orders/Requisitions have a records retention of current fiscal year plus 3 years.
- Contracts have a records retention of life of contract plus 6 years (General Schedule Control Number 300101).
- Contracts not executed have a records retention of 1 year, then dispose/delete (General Schedule Control Number 300102).
- Solicitations have a records retention schedule of life of contract plus 6 years (General Schedule Control Number 300701).
- Solicitations not executed have a records retention schedule of one year, then shred/delete (General Schedule Control Number 300702).

Chapter 8: Emergency Purchases

8.1 Emergency Purchases

Emergency purchases are defined in N.D.C.C. § [54-44.4-02 \(7\)](#) as purchases that OMB cannot make within the required time that involve public health or public safety, or where 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.

Emergency purchases must be made with the level of competition practicable under the circumstances. A written determination of the basis for the emergency and selection of the particular contractor must be included in the contract file. An [Emergency Purchase Explanation form](#), SFN 51627 must be completed and promptly forward to the OMB State Procurement Office after the purchase has been made. See N.D.A.C. § [4-12-09-04](#).

8.2 Urgent – Non-Emergency Purchases

Sometimes an unexpected requirement or poor planning creates an immediate need for goods or services, but the circumstance is not an “emergency” as defined in law. A noncompetitive procurement cannot be justified on the basis of a lack of advanced planning, administrative delays, or pending expiration of budget authority. [N.D.A.C. § [4-12-09-03\(2\)](#).]

If the purchasing is \$10,000 and over, an Alternate Procurement from must be approved by the State Procurement Office prior to deviating from the purchasing threshold competition requirements based upon the estimated purchase price. Complete an [Alternate Procurement Request form](#), SFN 51403 to request approval to make a limited or competitive procurement. See N.D.A.C. § [4-12-09-04\(1\)](#). NDUS institutions contact your purchasing department.

Chapter 9: Special Procedures

Certain goods and services require special procedures.

9.1 Refreshments

Any purchases of refreshments must comply with OMB [Fiscal Policy 515](#) – Coffee and Soft Drink Expense. Coffee and soft drinks may be purchased by state agencies for meetings to inform and train the general public, interested parties, consultants, etc. State funds cannot be used for coffee, soft drinks and food for state employee staff meetings or retirement parties. Contact OMB Fiscal for assistance.

9.2 Microfilm Equipment and Services

All state agencies and institutions, except institutions under the State Board of Higher Education, must obtain approval from Information Technology Department, Records Management Division, before purchasing or leasing any microfilm equipment or services (N.D.C.C. § [54-46.1-05](#)). Contact ITD Records Management Division at 701-328-3585 regarding approval requests.

9.3 Postage Meters

OMB Facility Management Division must approve the lease or rental of all postage meters by all state agencies. Agencies must submit an annual report of total postage used (N.D.C.C. § [54-06-18](#) and OMB [Fiscal Policy 111](#)). Contact OMB Facility Management at 701-328-2481 to request approval.

9.4 Desktop Support Services

N.D.C.C. § [54-59-22.1](#) requires specific state agencies to obtain centralized desktop support services from the Information Technology Department. Desktop support means, “technical assistance and device management related to the use of personal computers and peripheral devices. Agencies subject to this requirement must coordinate with [NDIT](#).

9.5 Flags

Use the [state contract](#) for Flags to ensure your agency complies with these laws.

- [North Dakota Flags](#). Reproductions of the North Dakota flag are required by law to adhere to the official design and industry color chart codes provided by the state historical society. Flags purchased by a state entity or a political subdivision must substantially meet the requirements of N.D.C.C. § [54-02-02](#).
- [American Flags](#). Under N.D.C.C. § [44-08-22](#), American flags purchased by a state entity or any political subdivision must be manufactured in the United States; this requirement does not apply to the purchase of items that portray the likeness of a flag.
- United States Flags made from hemp. See 2023 [House Concurrent Resolution \(HCR\) 3004](#).

9.6 Information Technology

State agencies planning to purchase information technology hardware, software, software maintenance, or services that are not on a state term contract, must submit an Initiative Intake request to NDIT in accordance with North Dakota Enterprise Architecture Standard [STD-ITD-001](#).

State Contract summaries will provide guidance on whether an Initiative Intake is required. IT projects determined by NDIT to be Major Information Technology contracts pursuant to N.D.C.C. § [54-59-32](#). Contact NDIT Purchasing at 701-328-1992 for assistance.

NDUS institutions see [NDUS IT Procedures](#), [Core Technology Services \(CTS\)](#), and your campus internal procedures.

9.7 Motor Vehicles

North Dakota Department of Transportation, State Fleet Services, must purchase or lease motor vehicles for state agencies (N.D.C.C. § [24-02-03.3](#)). Contact State Fleet Services at 701-328-2543 or visit www.dot.nd.gov/. When purchasing new motor vehicles, the state must comply with N.D.C.C. § [39-22-25](#) related to a prohibition of direct manufacturer sales of new motor vehicles.

9.8 Insurance

Insurance is subject to special requirements:

- **Fire and Tornado Insurance.** State property must be insured with the State Fire and Tornado Fund. Effective August 1, 2025, this program will transition from the Insurance Department to the Office of Management and Budget, Risk Management Division. The State Fire and Tornado Fund provides building and business personal property insurance coverage to state entities and political subdivisions (N.D.C.C. § [26.1-22](#)). State agencies must insure building construction after 1939 and all fixtures and permanent contents at full replacement value. Learn about coverage, rates, and filing claims by calling the North Dakota Insurance Reserve Fund (NDIRF) at 701-224-1988 or visit its website at www.ndirf.com.
- **Flood Insurance:** All flood insurance policies, regardless of the company, are underwritten through the National Flood Insurance Program (NFIP). The Office of the State Engineer is the State NFIP Coordinator. Flood insurance may be purchased directly from any licensed property insurance agent. Flood insurance purchased over and above the NFIP coverage limits must use state procurement procedures. Contact the Office of the State Engineer at 701-328-4898 or swc@nd.gov for assistance in evaluating whether your agency should obtain flood insurance and NFIP flood hazard mapping. Additional information is available on the State Water Commission Special Projects website at www.swc.state.nd.us/
- **Liability Insurance (Reinsurance):** The Risk Management Fund provides tort liability coverage for the state and state employees acting within the scope of their employment up to \$468,750,000 per person and \$1,875,000 per occurrence (\$500,000/\$2,000,000 effective July 1, 2026). OMB, through the Risk Management Division, is given the authority to approve additional liability insurance purchases for unique circumstances. All liability insurance purchased on behalf of the state must be authorized in writing by the OMB Director (ref. N.D.C.C. Chapter [32-12.2](#)).
- **All Risk Insurance:** Special coverage is available for mobile equipment, portable radios, computers, artwork, and similar property. An agency wishing to purchase this coverage should contact the Risk Management Division at 701-328-7584 or visit the [OMB Risk Management Services](#) website.

9.9 Special Preference Laws

North Dakota has preference laws for certain goods and services.

- **Coal.** N.D.C.C. § [48-05-02.1](#)
- **Food.** 2003 Senate Concurrent Resolution No. 4018
- **Environmentally Preferable Products – Bio-based Products.** N.D.C.C. § [54-44.4-07](#)
- **Paper, Recycled.** N.D.C.C. § [54-44.4-08](#)
- **Printing.** N.D.C.C. § [46-02-15](#) and [OMB Guideline for State Procurement of Printing](#).
- **Soybean-based Ink.** N.D.C.C. § [54-44.4-07](#)
- **American Flags.** N.D.C.C. § [44-08-22](#)
- **Direct Manufacturer Motor Vehicle Sales Prohibited.** N.D.C.C. § [39-22-25](#)
- **Work Activity Centers.** N.D.C.C. § [25-16.02](#)
- **Work Activity Centers - Construction Stakes.** N.D.C.C. § [25-16.2-02](#)

See the OMB [Guidelines to North Dakota Preference Laws](#) for more information

Chapter 10: Purchasing Exemptions

10.1 Exemptions by Statute

Certain goods and services are not subject to state procurement laws. Effective August 1, 2025, N.D.C.C. § [54-44.4-02](#) will be changed as follows:

“The office of management and budget shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, services, and other commodities. Contracts for use by multiple state agencies and institutions, including purchases under this section, must be established as a state contract by the office of management and budget or as a cooperative purchasing contract under section 54-44.4-13. Information technology procurements, including purchases under this section, are subject to the requirements of chapter 54-5 and policies, standards, and guidelines established pursuant to section 54-59-09. The following goods and services, however, are not subject to the competitive procurement requirements of this chapter:

1. Land, buildings, space, or the rental thereof, in accordance with section [54-21-24.1](#) and [54-44.1-16](#).
 - Leases for office space off the Capitol grounds must be reviewed by the Office of the Attorney General and approved by OMB Facility Management (N.D.C.C. § [54-21-24.1](#)).
 - See [OMB Leasing State Office Space](#) and [OMB Fiscal Policy 109](#).
 - [N.D.C.C. 54-44.1-16](#) requires OMB to complete a cost-benefit analysis for each new building construction project included in budget requests submitted by state agencies, departments, and institutions. The law requires OMB to obtain assistance from NDIT regarding technology costs and savings involved.
2. Telephone and telegraph service and electrical light and power services.
3. Public books, maps, periodicals, resource materials, and technical pamphlets.
4. Department of transportation materials, equipment, and supplies in accordance with section [24-02-16](#).
5. Energy-related procurements by the industrial commission for programs under chapters [17-05](#), [54-17.5](#), [54-17.6](#), [54-17.7](#), and [54-63](#) and under those statutes in [title 38](#) authorizing the industrial commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment when the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or when such a contract would otherwise be advantageous to the state.
7. Emergency purchases. See Chapter 8 of this manual.
8. Goods and services costing less than a specified amount as determined by written directive by the director of the office of management and budget.
9. Specified goods and services as determined by written directive by the director of the office of management and budget.
10. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services. Nothing in this subsection may be construed to allow an agency to create or renew a contract perpetually and without limitation.
11. Services to extract, tow, store, and dispose of abandoned or submerged vehicles as defined in chapter [23.1-15](#).

12. Contracts by the agriculture commissioner for agricultural market news services under cooperative agreements with the United States department of agriculture, ombudsment for pipeline restoration under section 4.1-01-17, environmental impact mitigation services under section 4.1-01-21.1, ombudsmen for wind property issues under section 4.1-01-23, weed control inspection agents under section 4.1-14-02, and hemp testing under section 4.1-18.1-04.2.
13. Contracts by the state auditor for audits of computer systems under section 54-10-29.
14. Contracts by the attorney general with experts under section 10-33-145.
15. Contracts by the department of health and human services for mental health and suicide prevention training programs, brain injury informal supports, and other training and related materials for individuals receiving assistance or services and employees, contractors or professionals providing assistance or services under programs administered by or under the supervision and direction of the department of health and human services.
16. Expenditures by a state agency or institution for direct medial placement, including a billboard or signage, with a newspaper or newspaper industry association, magazine or other publication, radio or television station, digital media provider, or venue.

Other State Laws contain exemptions from state procurement requirements. OMB seeks to identify and reference any exemptions from state procurement requirements to ensure there is a comprehensive listing of exemptions from the state purchasing practices laws. State agencies who seek exemptions are encouraged to contact OMB prior to seeking legislation to create exemptions, as law provides OMB authority to make exemption determinations by written directive. Here are other known exemption statutes:

- N.D.C.C. § [10-04-16.1](#) Investigations and subpoenas
- Subsection [28 of N.D.C.C § 50-06-05.1](#) Powers and duties of the department
- N.D.C.C. § [50-06-47](#) Pay for success fund
- N.D.C.C. § [50-11.1-14.1](#) Workforce development

10.2 Exemptions by Rule

These OMB exemptions are stated in North Dakota Administrative Code (N.D.A.C. [4-12-01-04](#)) certain goods and services have been exempted from state procurement laws and rules:

- Those agencies or institutions governed by the state board of higher education, which are exempt under subsection 5 of North Dakota Century Code section [15-10-17](#) and North Dakota Century Code section [54-44.4-02](#);
- Contracts for services of legal counsel with attorneys who are not employed by the state, pursuant to N.D.C.C. § [54-12-08](#).
- Contracts for public buildings and public improvement contract bids, pursuant to North Dakota Century Code [Title 48](#);
- Contracts for architect, engineer, and land surveying services, pursuant to North Dakota Century Code [Chapter 54-44.7](#);
- Contracts for concessions, pursuant to North Dakota Century Code [Chapter 48-09](#);
- Grant programs, not including procurements using grant dollars [N.D.A.C. § [4-12-01-04 \(1\)\(h\)](#)]
- Professional memberships. [N.D.A.C. § [4-12-01-04 \(1\)\(i\)](#)]

10.3 Exemptions by OMB Written Directive

N.D.C.C. § [54-44.4-02](#) gives OMB the authority to exempt specified goods and services and purchases under specified dollar amounts by written directive:

- Contracts by the Commission on Legal Counsel for Indigents pursuant to N.D.C.C. Chapter 54-12-08 and 54-61 and 54 for legal services. Contracts by the Commission on Legal Counsel for Indigents pursuant to N.D.C.C. Chapter 54-61 for private investigators, arbitrator services, and contracts for professional and technical services, including the provision of testimony, related to existing or probable lawsuits in which a party is a recipient of indigent defense services pursuant to N.D.C.C. Chapter 54-61. (Effective July 27, 2012)
- The procurement of temporary exhibits without an Alternate Procurement process by the State Historical Society. (Effective December 22, 2016)
- Department of Health and Human Services (DHHS) purchases for DHHS's continuously staffed residential units in the event of low-census time periods of consumables are exempt from requirements to purchase from state contracts without completing a State Contract Exemption , SFN 54202, including foods, drinks, and personal hygiene/toiletry items for clients and products for operations of the residence including laundry, cleaning, paper products, and household products needed on a recurring basis. This exemption also applies when the items, packaging sizes, and minimum order requirements do not meet the needs of DHHS. DHHS may purchase consumables not on state contract through noncompetitive or limited competitive procedures without an approved Alternate Procurement pursuant to subsection 4 (f) or N.D.C.C. § 54 – 44.4- 05. DHHS is not required to aggregate annual purchase volumes of consumables for the various residential units and may treat each consumable purchase transaction under \$10,000 as a small purchase under subsection 1 of N.D.A.C. § 4-12-08-02. DHHS is not required to submit an Alternate Procurement if rotating vendors is not practicable. (Effective December 31, 2024)
- Direct payment of funds as financial assistance to eligible recipients. (Effective December 31, 2024)
- Direct payments of funds as distributions of grant awards to eligible recipients, pursuant to subsection 1 (h) of N.D.A.C. § 4-12-01 – 04. (Effective December 31, 2024).
- Noncompetitive purchases of library books, magazines, and periodicals pursuant to subsection 3 (e) of N.D.A.C. § 4-12-09-01 do not require Alternate Procurement approval. (Effective August 1, 2025)
- Noncompetitive purchase of testing services and related materials for qualifications, aptitude, personality, selection, skills, and related testing materials by the North Dakota Highway Patrol and other state agencies and institutions that use testing for hiring, personnel management, and personnel development do not require Alternate Procurement approval. (Effective August 1, 2025)
- Noncompetitive purchase of law enforcement training, specialized training for law enforcement personnel, and law enforcement-related training materials for the North Dakota Highway Patrol under [N.D.C.C. Chapter 39-03](#), Peace Officer Standards and Training Board under [N.D.C.C. Chapter 12-63](#), and other state agencies and institutions with law enforcement responsibilities do not require Alternate Procurement approval. (Effective August 1, 2025.)

Chapter 11: Other Purchasing Laws

11.1 Other Purchasing Laws

As a Procurement Officer, you need to know the laws that apply to the type of purchase you are making. The Level 1 Purchase Manual applies to the purchase of goods and services that fall under N.D.C.C. Chapter [54-44.4](#) State Purchasing Practices.

Your agency may need to make purchases that are covered by other purchasing laws. It is important that you recognize these other types of purchases. Consult your legal counsel for assistance to determine which laws apply to the purchase.

11.2 Concessions

Purchase of Concessions is subject to N.D.C.C. Chapter [48-09](#). Agencies must comply when granting concessions for cafes, restaurants, and confectioneries on public buildings and grounds.

11.3 Architects, Engineer and Land Surveying Services

Purchase of Architects, Engineering, and Surveying Services is subject to N.D.C.C. Chapter [54-44.7](#). Additionally, the following agency-specific laws related to prequalification are in effect:

- a. N.D.C.C. § [24-02-07.3](#) PREQUALIFICATION, SELECTION, AND CONTRACTING FOR CONSULTANTS – SOLICITATIONS (NORTH DAKOTA DEPARTMENT OF TRANSPORTATION)
- b. N.D.C.C. § [37-10-03.6](#) PREQUALIFICATION, SELECTION, AND CONTRACTING FOR CONSULTANTS - SOLICITATIONS (ADJUTANT GENERAL)

11.4 Public Improvement

The OMB State Procurement guidelines are not intended for public improvement and construction contracts covered by N.D.C.C. Title [48](#). Agencies should consult their legal counsel for assistance in determining whether the intended purchase falls under N.D.C.C. § [48-01.2](#) Public Improvement Bids and Contracts or N.D.C.C. § [54-44.4](#) State Purchasing Practices.

“Construction” is defined in N.D.C.C. § [48-01.2-01](#) as “the process of building, altering, repairing, improving, or demolishing any public structure or building or other improvement to any public property. The term does not include the routine operation or maintenance of existing facilities, structures, buildings, or real property or demolition projects costing less than the threshold established under N.D.C.C. § [48-01.2-02.1](#).”

N.D.C.C. § [48-01.2-02](#) specifies the public improvement construction threshold for bidding construction of a public improvement and procuring plans, drawings, and specifications by an architect or engineer. Public improvements over the threshold must be advertised prior to the bid opening, except as otherwise provided when an emergency situation is declared (N.D.C.C. § [48-01.2-04](#)).

[Contractor's License](#). North Dakota law requires any person engaged in the business of acting in the capacity of a contractor in this state to have a contractor's license when the cost, value, or price per job exceeds four thousand dollars (N.D.C.C. § [43-07-02](#)).