ALTERNATE PROCUREMENT REQUEST

OFFICE OF MANAGEMENT AND BUDGET
CSD/STATE PROCUREMENT OFFICE
SFN 51403 (7-2016)

Submit via the Procurement Work Request System:
https://www.nd.gov/omb/
Select OMB Apps Login

Name of Agency or Institution	Business Unit Number	Date of Request	Requisition/Tracking Number (Optional)
Procurement Officer	Telephone Number	Fax Number	E-mail Address

Description of Service or Commodity - Describe the intended purpose. (Include manufacturer, brand, model, and other identifiers.)

Procurement Type
☐ Noncompetitive Procurement ☐ Limited Competitive Procurement ☐ Purchase from another government entity's contract

Total Cost, including all options for renewal or extension (e.g. $10,000/yr with two renewal options = $30,000)

☐ One-time Purchase ☐ Recurring Purchase	If recurring, describe anticipated future purchases, including on-going maintenance.

Non-Competitive Only

Contractor	Contact Person	Telephone Number	Fax Number
Address	City	State	ZIP Code

Indicate whether registration with the Secretary of State is required. See OMB Guidelines for Vendor Registration.
☐ Yes ☐ No

How was the price determined to be fair and reasonable? Describe the negotiation efforts to obtain the best price.

Authority for Limited or Non-competitive Procurement

Competition can be limited under the following N.D.C.C. or N.D.A.C. provisions. Check the appropriate authority reference.

- ☐ The commodity or service is available from only one source. [N.D.C.C. § 54-44.4-05 (2)(a)]
- ☐ The commodity or service is for experimentation or trial. [N.D.C.C. § 54-44.4-05 (2)(b)]
- ☐ No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process. [N.D.C.C. § 54-44.4-05 (2)(c) and N.D.A.C. § 4-12-11-08)]
- ☐ Commodities are being purchased for over-the-counter resale. [N.D.C.C. § 54-44.4-05 (2)(d)]
- ☐ A used commodity is advantageous to the state and the commodity is available on short notice. [N.D.C.C. § 54-44.4-05 (2)(g)]
- ☐ The commodity is a component or replacement part for which there is not commercially available substitute and which can be obtained only from the manufacturer. [N.D.C.C. § 54-44.4-05 (2)(h)]
- ☐ Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment. [N.D.C.C. § 54-44.4-05 (2)(i)]
- ☐ The services or the circumstances are of such a nature that deviation from the procurement process is appropriate. [N.D.C.C. § 54-44.4-05 (2)(j)]
- ☐ Products or services exclusive to particular individuals or business entities are required, but competition for that proprietary product or service exists. [N.D.A.C. § 4-12-09-02 (1)(a)]
- ☐ Circumstances require that commodities or services be provided by vendors within a specific geographic area, such as equipment requiring local service, on-site service within a specific time, or delivery of ready mix concrete. [N.D.A.C. § 4-12-09-02 (1)(b)]
- ☐ It is determined that a competitive sealed bid or competitive sealed process is impracticable or not in the best interest of the state. [N.D.A.C. § 4-12-09-02 (1)(c)]
- ☐ The commodity or service is available from another government entity's contract. [N.D.C.C. § 54-44.4-13]. NOTE: Attach a copy of the contract. OMB State Procurement Office approval is required regardless of the dollar amount.

Justification and Supporting Documentation

Explain why a fully competitive procurement process is impracticable or not in the best interest of the state. Factual evidence must be provided, sufficient for the approver to independently determine that the justification is true and accurate. Factual evidence must be included or attached, such as written documents, reports, supporting data, affidavits, patent or copyright information, research or other information.

Disapproval Consequences

What are the consequence(s), including a dollar estimate of the financial impact, if this request for limited competitive or non-competitive purchase is not approved?

Instructions: Requests over $2,500 must be approved by the Office of Management and Budget, State Procurement Office. The Information Technology Department must approve all requests for information technology hardware, software, and services over $25,000. If using federal funds or a grant, check whether the funding source has requirements for noncompetitive purchases.

Step #1
Office of Management and Budget - State Procurement Office Approval (Over $2,500)

Approving Official Name	Telephone Number

☐ Returned for Further Justification Date: ☐ Send Notice of Intent to Make a Limited/Non-competitive Purchase Date: ☐ Approved ☐ Disapproved

Comments

Signature	Date	If Recurring, Expiration Date

Step #2 (if required)
Information Technology Purchases only
Information Technology Department Approval (Over $25,000)
State Procurement will forward to: ITDprocurement@nd.gov

Approving Official Name	Telephone Number

☐ Returned for Further Justification Date: ☐ Approved ☐ Disapproved

ITD Review Considerations: Is the product or service consistent with the agency's strategic IT plan and compliant with North Dakota Enterprise Architecture Standard STD-ITD-001? ☐ Yes ☐ No

ITD Reviewer Comments

Signature	Date

ALTERNATE PROCUREMENT REQUEST

Occasionally, circumstances arise under which a fully competitive procurement process may be difficult or impossible. Procurement is noncompetitive when there is no bidding process. Limited competition procurements occur when competition is possible, but the requirements of the bid restrict competition to particular suppliers or products. These types of procurement are exceptions to the state policy that purchases be completed through full competition with fair and equal opportunity to all qualified vendors. Therefore, limited and non-competitive procurements should only be used when truly necessary and authorized by state law or rule. Contact the OMB State Procurement Office at 701-328-2740 for assistance.

Approval Authority

The OMB State Procurement Office must approve all determinations over $2,500. Any requests to purchase from a GSA contract or another government entity's contract must be reviewed by the OMB State Procurement Office. If the procurement officer has not provided sufficient evidence to make an independent examination and determination of the material facts of the procurement, the approving official may return the request form for additional justification or require a notice of intent to make a limited or non-competitive purchase. Information technology requests over $25,000 must be approved by the Information Technology Department.

Notice of Intent to Make a Limited or Noncompetitive Purchase

Notice of intent to make a limited or non-competitive purchase may be issued to attempt to identify alternate sources for the needed commodity or service. A notice template is available on the OMB State Procurement Office website. The notice describes the required commodity or service thought to be available only from limited sources or one source, and it invites vendors to contact the procurement officer to propose an alternate source. Use the State Procurement Online system to issue the notice to the appropriate state bidders list and any other known potential bidders.

Determination Not Required - Exemptions

Alternate Procurement determinations are not required for government entities, commodities and services exempted from state procurement practices by N.D.C.C. § 54-44.4-02 as follows:

1. Land, building, space, or the rental thereof. [Note: Leases for office space off the Capitol Grounds must be reviewed by the Office of the Attorney General and approved by OMB Facility Management, ref. N.D.C.C. § 54-21-24.1 and OMB Fiscal Policy 109.]
2. Telephone and telegraph service, electrical light, and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. Department of Transportation materials, equipment, and supplies in accordance with N.D.C.C. § 24-02-16.
5. Procurements through a contract or other instrument executed by the Industrial Commission 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 agency 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 as defined under N.D.C.C. § 54-4.4-02 (7) and N.D.A.C. § 4-12-09-04. See SFN 51627 Emergency Purchase Form.
8. Commodities and service $2,500 and below. See N.D.A.C. § 4-12-08-02 (1).
9. Employee benefit services, trust-related services, and investment management services obtained by an agency with a fiduciary responsibility regarding those services.
10. Specific commodities and services as determined by written directive by the Director of OMB in N.D.A.C. § 4-12-01-04 as follows:
    a. Contracts for services of legal counsel with attorneys who are not employed by the state, pursuant to N.D.C.C. § 54-12-08.
    b. Contracts for public buildings and public improvement contract bids, pursuant to N.D.C.C. title 48.
    c. Contracts for architect, engineer, and land surveying services pursuant to N.D.C.C. chapter 54-44.7.
    d. Contracts for concessions, pursuant to N.D.C.C. chapter 48-09.
    e. Grant programs; this does not include procurements using grant dollars.
    f. Professional memberships.

Alternate Circumstances Permitted by Law and Rule Where a Written Determination is not Required

1. Commodities or services produced or provided by correctional institutions or other government entities. N.D.C.C. § 54-44.4-05 (2)(e); N.D.A.C. § 4- 12-15.
2. Commodities and services for which competition is waived under N.D.A.C. § 4-12-09-01(3):
    a. Contracts for legal services, subject to the requirements of N.D.C.C. § 54-12-08;
    b. Contracts for professional witnesses to provide for professional services or testimony related to existing or probable lawsuits in which the State may become a party;
    c. Contracts for temporary administrative law judges pursuant to N.D.C.C. § 54-57-02;
    d. Contracts for medical specialists;
    e. Purchases of copyrighted printed and electronic works when only available from the publisher or producer;
    f. Purchases of materials required for manufacturing and production by a purchasing agency engaged in manufacturing and production operations;
    g. Where immediate expenditures are necessary to ensure the integrity of state records;
    h. Purchases of livestock, fish, insects, and other animals;
    i. Commodities for resale at state-operated concessions;
    j. Purchases of items with cultural, historical, or archaeological significance for museums or archival purposes;
    k. Purchases of works of art;
    l. Contracts for residential treatment and vocational rehabilitation services to ensure continuity of client care and vocational rehabilitation commodities for clients;
    m. Contracts for performers, entertainers, and guest speakers; excluding contracts for education, instruction or training;
    n. Medications, pharmaceuticals, metabolic foods, food supplements, food replacements, vitamins, therapeutics, and medical devices, as prescribed by health care professionals for patients of a state facility or clients of a state program;
    o. Conducting a limited competitive process to purchase heating fuels, ready-mix concrete, sand, gravel, road oil, and bituminous using the level of competition practicable from vendors in a reasonable, specific geographical area; or
    p. Contracts for insurance placed through a broker hired through a competitive or limited competitive process where the broker is hired to elevate insurance pricing and coverage information and make placement recommendations.