

VENDOR REGISTRATION GUIDELINES

OFFICE OF MANAGEMENT AND BUDGET

Prepared by

State Procurement Office

Central Services Division

These guidelines are a result of the cooperative efforts of the North Dakota Secretary of State, Office of the Attorney General, and Office of Management & Budget

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These guidelines are intended to provide information about registration requirements for vendors that provide commodities and services to the State. This is a reference tool for selecting terms and conditions related to vendor registration required in solicitations and contracts. These guidelines are based upon state laws and rules, and Office of Management and Budget (OMB) procurement guidelines. Please contact the OMB State Procurement Office (SPO) at 701-328-2740 or infospo@nd.gov if you have any suggestions for improving these guidelines.

I. **Secretary of State Business Registration Requirements**

North Dakota has laws that require vendors to become registered with the North Dakota Secretary of State in certain circumstances. Registration with the Secretary of State is not tied to any specific dollar amount. You need to determine whether the contractor will be required to register with the North Dakota Secretary of State when planning to procure commodities or services, regardless of the dollar amount. Contact the Secretary of State, Business Services at 701-328-2904 or sosbir@nd.gov for assistance.

1. General Information.

- a. Agencies and Institutions can use the [Business Records Search](#) to determine if vendors are registered with the Secretary of State.
- b. Registration forms and fees vary based upon business entity type. Visit the Secretary of State's [Vendor Registration](#) page for forms and instructions.
- c. Consent to use business name may be needed if another business is already registered with the same or a similar name.
- d. Registrations could take 30-60 days.

2. Common Business Types.

Note: (for Secretary of State's purpose, "foreign" refers to out-of-state and out-of-country)

- a. Sole Proprietor – any person that engages in business under a trade name must register that trade name with the Secretary of State. *See more information on [trade name](#) below.*
 - No registered agent is required.
- b. Corporation/Limited Liability Corporation (LLC) – North Dakota
 - A North Dakota corporation must be active and have its Articles of Incorporation on file with the Secretary of State.
 - A registered agent must be maintained in North Dakota.
- c. Corporation/Limited Liability (LLC) - Foreign
 - A foreign corporation must file a Foreign Corporation Certificate of Authority Application with the Secretary of State.
 - A foreign LLC must file a Foreign Limited Liability Company Certificate of Authority Application with the Secretary of State.

- Both application types must be supported by a certificate from the filing officer of the jurisdiction of origin that verifies the existence and active status.
 - A registered agent must be maintained in North Dakota.
- d. General Partnership – a general partnership that engages in business under a fictitious name must register a Partnership Fictitious Name Certificate with the Secretary of State.
- No registered agent is required.
- e. Visit the Secretary of State's [Vendor Registration](#) page for more information.

3. Registration Exceptions.

All North Dakota and Foreign vendors must be registered with the Secretary of State, except under the following circumstances:

- a. The vendor is a sole proprietor doing business in his or her full personal name, with or without a modifier (e.g., “Joe Smith” or “Joe Smith Painting”).
- b. The vendor is a sole proprietor doing business using his or her surname as part of the business name and a specialized license or permit is not required. For example, “Smith Consulting” need not register if a license or permit is not required, but “Smith Building” would need to register if the business is required to obtain a contractor’s license. See more information on [Licenses and Permits](#) below.
- c. The vendor is a general partnership and the full names of all partners are disclosed in the partnership name, such as, “Joe Smith and Tom Dooley Construction”.

Foreign vendors also have these additional registration exceptions:

- a. The scope of work is limited to the foreign vendor shipping goods into North Dakota by common carrier.
- b. The scope of work does not require the foreign vendor to physically come to North Dakota, and no licenses or permits are required by North Dakota law or other ordinance. See more information on [Licenses and Permits](#) below. Contact your Assistant Attorney General for questions regarding required licenses or permits.
- c. The scope of work requires a foreign (out-of-state) vendor to physically come to North Dakota, but the work will be completed within 30 days or less, the project is an isolated transaction for the vendor, and no licenses or permits are required by North Dakota law or other ordinance (e.g. an out-of-state vendor has never been in the State before and provides a one-day seminar in North Dakota).

4. Trade Name/Franchise Name.

- a. Trade Name: a name assumed to identify the business or activities of an individual or organization and which does not include in the name:
 - The true name of the organization doing the business
 - The first name and surname of an individual using the business name
 - The surname of each individual, repeating a surname if more than one owner has the same surname

- A name assumed under this bullet or a name of an organization or association not otherwise registered with the Secretary of State requires registration as a trade name if a license or permit to conduct business or operations is required by the State of North Dakota.

- b. Franchise Name: a name to which an independent operator has secured the rights from a franchiser or licensor to use and distribute products and services, techniques, and trademarks for a percentage of sales or royalty fees.
- c. Visit the Secretary of State's [Trade Name/Franchise Name](#) page for more information.

5. Registered Agent.

- a. A registered agent is a person authorized to accept service of process for another person or entity in a particular jurisdiction. Service of process is the formal delivery of some type of legal notice. A registered agent ensures each service of process is properly received and forwarded to the business organization. No lawsuit can begin until the party being sued receives service of process.
- b. An entity registered with the Secretary of State must continuously maintain a commercial or noncommercial registered agent and address in North Dakota. An entity cannot serve itself as a registered agent.
- c. Failing to maintain a registered agent may result in the entity losing its "good standing" status.
- d. In the event that a state agency decides to do business with a vendor that has not registered with the Secretary of State and therefore, does not have a registered agent, the agency must be aware of the potential risk and losses to which it is exposing the state.
 - When a vendor does not have a registered agent, there is no official representative for accepting service of process on behalf of the business.
 - Remedies to enforce the contract become extremely limited, if not eliminated altogether.
 - This can result in increased costs and time to the State in its attempt to recover losses; or the State may not have any remedies available and will be forced to absorb the entire loss that results from the contract.

6. Licenses and Permits.

- a. Business Reports, Forms and Licenses Required in the State of North Dakota.
 - Each business has reports, licenses or permits that are unique to that particular business.
 - Visit the [NDSU Extension Service Center for Community Vitality](#) website for information on required licenses and permits.
- b. Contractors.
 - A contractor is any person engaged in the business of construction, repair, alteration, dismantling or demolition of bridges, highways, roads, streets,

buildings, airports, dams, pipelines, and every other type of structure, project development, or improvement coming within the definition of real or personal property, including the construction, alteration, or repair of property to be held either for sale or rental, and shall include subcontractor, public contractor, and nonresident contractor.

- No person may engage in the business nor act in the capacity of a contractor within North Dakota when the cost, value, or price per job exceeds the sum of \$4000 without first having a license.
- Visit the Secretary of State's [Contractors](#) page for more information.

II. **Bidders List Registration**

The Office of Management and Budget (OMB) State Procurement Office (SPO) maintains a Bidders List that state agencies and institutions are required to use when purchasing commodities and services over the threshold for micro and small purchases ([N.D.C.C. § 54-44.4-09](#)). Individuals or business entities desiring to be placed on the Bidders List must become "approved" through an application process. Placement on the Bidders List does not guarantee a vendor will receive notice of every solicitation over the amount established for small purchases ([N.D.A.C. § 4-12-05-01](#)).

1. **On-line Bidder Maintenance**. Once registration requirements with the Secretary of State have been met, individuals or business entities should "[Register as a Bidder](#)" with the State Procurement, Vendor Registry Office. The registration process consists of six short pages which provide necessary information to the Vendor Registry Office. All registrations will be reviewed and go through the approval process.

An approved registered bidder may [login to the Portal](#) to review and update bidder information. Current contact information and properly selected commodity codes will maximize your opportunity to receive notices of bidding opportunities. Updates to bidder profile information may include address(s), contact(s), and commodity codes (goods and services) the business provides.

2. **Paper Bidder Application and Maintenance**. In the event a business would prefer to submit a bidder application or notification of change form on paper, they can use the following forms.

U.S. businesses shall submit [Bidders List Application SFN53655](#) to the OMB State Procurement Office indicating the commodities or services for which they would like to receive solicitations.

For State Procurement's purposes, "foreign" refers to out-of-country. Foreign bidders must complete and submit [Foreign Bidders List Application SFN58731](#) to the OMB State Procurement Office.

To make changes to their bidder profile, a [Notification of Change SFN 54308](#) can be submitted to the OMB State Procurement Office.

Vendors are required to provide contact and tax information, business structure, and applicable commodity codes for the goods or services they offer.

State agencies and institutions are not required to use the Bidders List when making micro and small purchases; however, there are advantages in doing so. All vendors on the Bidders List are registered with the Secretary of State.

State agencies and institutions are required to use the Bidders List when making formal sealed purchases, unless receiving approval to make a noncompetitive or limited competitive purchase using the [Alternate Procurement Request SFN51403](#).

State law allows the purchasing agency to select when the bidders must become approved. The OMB State Procurement Office website has [solicitation templates](#) that include standard clauses for each of these options:

- Require all bidders or offerors to be approved vendors by the deadline for receipt of bids or proposals;
- Authorize receipt of bids or proposals from vendors that are not approved, and require the successful bidder or offeror to become registered within 60 days, or shorter period specified by the procurement officer; or
- Waive the approval requirement, if they determine in accordance with these guidelines that: 1) registration with the Secretary of State and 2) an agent for service of process in this State is not required.

Registration requirements must be stated in the solicitation. If you require bidders to be approved before the solicitation deadline and you receive a bid or proposal from a vendor that is not approved, you need to reject it. It's pertinent that agencies and institutions understand the potential risk associated with waiving the Bidders List registration requirement.

For more detailed information about the procedures for getting vendors on the Bidders List, contact the Vendor Registry Help Desk at 701-328-2773 or infospo@nd.gov. Application forms are available on the [OMB Vendor-Bidder List Application and Maintenance](#) page.

III. Vendor Registry - Paying Suppliers

New vendors (supplier or individuals) looking to receive payment from the state should use our on-line supplier registration pages to "Register as a Supplier". The registration process consists of five short pages which allow the vendor to provide necessary information to the Vendor Registry Office. All registrations will require the appropriate US W-9 or Foreign W-8 form be submitted which can be found on the OMB website under Vendor Payments. All supplier registrations will be reviewed and go through the approval process of the Vendor Registry Office.

The IRS requires the State to issue 1099's for certain types of payments. [OMB Fiscal Policy 110](#) requires all payees to complete an IRS Form W-9. If no W-9 is on file, a 28% withholding is required.

If an agency or institution does not use a purchasing card when buying goods or services, the State must issue a check or electronic fund transfer (Automated Clearing House, ACH).

For more information visit the Vendor Registry website at www.nd.gov/omb/vendor or contact the Vendor Registry Help Desk at 701-328-2773 or spovendor@nd.gov.