

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2175
(Senators G. Lee, Oehlke, Triplett)
(Representatives Ruby, Weisz, Delmore)

AN ACT to amend and reenact section 24-02-07.3 of the North Dakota Century Code, relating to prequalification and selection of consultants by the department of transportation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 24-02-07.3 of the North Dakota Century Code is amended and reenacted as follows:

24-02-07.3. Prequalification, selection, and contracting for consultants - Solicitations.

1. The director may prequalify, select, and contract for consultants in the area of engineering, land surveying, architecture, traffic safety, business administration, and related matters. The prequalification of the consultant must be based on detailed information regarding firm organization, qualifications of personnel, type of work the firm is qualified to perform, previous work experience, and financial status and must be provided to the director in a form approved by the director. If a consultant meets the criteria set by the director, the director shall prequalify the consultant, noting any limitations as to the type or amount of the work the consultant may perform. When a consultant is prequalified, the consultant is entitled to receive requests for proposals, proposals, and other solicitations for work in the areas in which the consultant is prequalified without any other screening or qualification process. The period of prequalification may not exceed three years. The qualifications of the consultant for a specific project must be determined according to the criteria in subsection 5 of section 54-44.7-03. The director shall publish a prequalification solicitation at least once each year and need not comply with the provision in subdivision c of subsection 2 of section 54-44.7-03 requiring the publication of an invitation for a specific project. The selection and contract negotiation must be performed according to subsections 6 and 7 of section 54-44.7-03.
2. The director is not required to comply with subsection 3 of section 54-44.7-03 or 54-44.7-04 and may procure the services of consultants for:
 - a. Projects with consultant costs estimated to be not more than ~~twenty-five~~one hundred thousand dollars through direct negotiation with a selected prequalified firm, after considering the nature of the project; the proximity of the architect, engineer, construction management, or land surveying services to the project; the capability of the architect, engineer, construction manager, or land surveyor to produce the required services within a reasonable time; past performance; and the ability to meet project budget requirements. Fees paid pursuant to this subdivision during the twelve months immediately preceding negotiation of the contract by the department of transportation for professional services performed by any one architectural, engineering, or land surveying individual or firm may not exceed ~~fifty-two~~hundred thousand dollars. A person seeking to render professional services under this section shall furnish the department a list of professional services previously provided to the department, including the fees paid during the twelve months immediately preceding the contract being negotiated. If the department determines that it is appropriate, the department may use the procurement procedures in subdivision b or c in place of the procedures in this subdivision.
 - b. Projects with consultant costs estimated to be greater than ~~twenty-five~~one hundred thousand dollars but not more than ~~one~~three hundred thousand dollars by notifying all prequalified firms in the specific area of need, allowing a minimum of seven calendar

days to respond, and following the remaining process in subsections 4 through 7 of section 54-44.7-03. If the department determines that it is appropriate, the department may use the procurement procedures in subdivision c in place of the procedures in this subdivision.

- c. Projects with consultant costs estimated to be greater than ~~one~~three hundred thousand dollars by notifying all prequalified firms, allowing a minimum of twenty-one calendar days to respond, and following the remaining process in subsections 4 through 7 of section 54-44.7-03.

3. Notwithstanding any other provision of law, when soliciting the services of consultants under this section, the director may include multiple projects in one solicitation. The requirements for the project within the highest dollar threshold under subsection 2 apply to all of the projects in the multiple project solicitation.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2175.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 90 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State