



**ALTERNATE PROCUREMENT REQUEST**  
 OFFICE OF MANAGEMENT AND BUDGET  
 CSD/STATE PROCUREMENT OFFICE  
 SFN 51403 (10-2010)

Email: infospo@nd.gov  
 ITD Email: ITDprocurement@nd.gov  
 Telephone: 701-328-2683  
 Fax: 701-328-1615

Name of Agency or Institution North Dakota Public Service Commission	Business Unit Number 408.0	Date of Request 7/13/2012	Requisition/Tracking Number (Optional)
Procurement Officer Joshua C. Gallion	Telephone Number (701) 328-4020	Fax Number (701) 328-2410	E-mail jcgallion@nd.gov
Description of Service or Commodity - Describe the intended purpose. (Include manufacturer, brand, model, and other identifiers.) Call before you dig billboards to be placed across the state of North Dakota.			
Procurement Type <input checked="" type="checkbox"/> Noncompetitive Procurement <input type="checkbox"/> Limited Competitive Procurement <input type="checkbox"/> 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) \$10,000			
<input checked="" type="checkbox"/> One-time Purchase <input type="checkbox"/> Recurring Purchase          Describe anticipated future purchases, such as maintenance or more "like" items in the future.			

**Non-Competitive Only**

Contractor Newman Outdoor Advertising	Contact Person Bruce Strinden	Telephone Number (701) 226-6555	Fax Number (701) 255-7144
Address PO Box 60 (3800 Commerce Dr)	City Bismarck	State ND	Zip Code 58502
Indicate whether registration with the Secretary of State is required. See OMB Guidelines for Vendor Registration. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
How was the price determined to be fair and reasonable? Describe the negotiation efforts to obtain the best price. Newman Outdoor Advertising has provided an estimate consistent with previous years.			

**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.

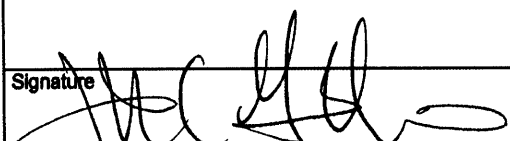
Newman Outdoor Advertising is the sole source supplier of 30 sheet bleed poster billboards in the state. Attached is a copy of the letter from Bruce Strinden confirming this.

**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?

The purpose of the federal One Call Grant is to improve damage prevention awareness. The billboards present a specific message about the North Dakota law requiring excavators to have underground utilities located before beginning any excavation. Preventing third party damage to underground utilities and natural gas pipelines avoids repair costs, economic impacts to businesses, and personal injury or death.

**Instructions:** The Agency Head or Designee has the authority to approve Alternate Procurement Requests up to \$25,000. Requests over \$25,000 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. Please email to [infospo@nd.gov](mailto:infospo@nd.gov) or ITD, fax to 701-325-1615, or mail to State Procurement Office.

<b>Step #1</b>	
<b>Agency Head or Designee Approval Authority (Up to \$25,000)</b>	
Submit to: <a href="mailto:infospo@nd.gov">infospo@nd.gov</a>	
Approving Official Name Joshua C. Gallion	Telephone Number (701) 328-4020
<input type="checkbox"/> Returned for Further Justification Date: <input type="checkbox"/> Send Notice of Intent to Make a Limited/Non-competitive Purchase Date: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved	
Comments None	
Signature 	Date 7/13/12

<b>Step #2 (if required)</b>	
<b>See Instructions for ITD requirements</b>	
<b>Information Technology Department Approval (Over \$25,000)</b>	
Submit to: <a href="mailto:ITDprocurement@nd.gov">ITDprocurement@nd.gov</a>	
Approving Official Name	Telephone Number
<input type="checkbox"/> Returned for Further Justification Date: <input type="checkbox"/> Approved <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> 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. When a limited competitive or non-competitive procurement is contemplated, the purchasing agency must make a determination (ref. N. D.C.C. § 54-44.4-05, N.D.A.C. § 4-12-09). Contact the OMB State Procurement Office at 701-328-2683 for assistance.

### **Approval Authority**

The agency head or designee has authority to approve determinations up to \$25,000. The OMB State Procurement Office must approve all determinations over \$25,000. 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, as required in N.D.A.C. § 4-12-09, the approving official may return the request form for additional justification or require the procurement officer to issue 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. If a viable option is found, cancel the process and proceed with a competitive procurement process. If no alternate sources are identified, the limited competitive or non-competitive determination can be approved. The award is subject to a seven day protest period, in accordance with N.D.C.C. § 54-44.4-12.

### **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 and N.D.A.C. § 4-12-01-04, 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, 54-17.2-03, 54-17.5-04, 54-17.6-04, and 54-17.7-04 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. Commodities and service \$2,500 and below. See N.D.A.C. § 4-12-08-02 (1).
8. 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.
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 doctors, dentists, psychologists, and other medical specialists;
  - e. Purchases of books, newspapers, magazine subscriptions, and periodicals;
  - f. Pre-recorded audiovisual materials including records, tapes, cassettes, compact discs, slides, transparencies, films, and videos;
  - g. Purchases of materials required for manufacturing and production by a purchasing agency engaged in manufacturing and production operations;
  - h. Where immediate expenditures are necessary to ensure the integrity of state records;
  - i. Purchases of livestock, fish, insects, and other animals;
  - j. Commodities for resale at state-operated concessions;
  - k. Purchases of items with cultural, historical, or archaeological significance for museums or archival purposes;
  - l. Purchases of works of art;
  - m. Contracts for residential and treatment services to ensure continuity of client care and vocational rehabilitation commodities for clients of the Department of Human Services;
  - n. Contracts for performers, entertainers, and guest speakers; excluding contracts for education, instruction or training;
  - o. Medications, pharmaceuticals, metabolic foods, food supplements, food replacements, vitamins, and therapeutics, as prescribed by healthcare professionals for patients of a state facility or clients of a state program.

A prior written determination using SFN 51403, Alternate Procurement Request, is required for all other requests for limited competitive and non-competitive purchases.

May 25, 2011

Mr. Patrick Fahn  
North Dakota Public Service Commission  
600 East Boulevard Ave  
Bismarck, ND 58505-0480

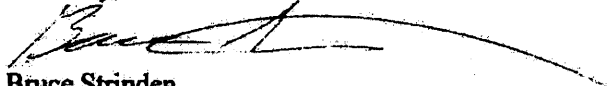
Dear Patrick;

The purpose of this letter is to certify that Newman Outdoor Advertising is the sole supply source of the 30 sheet bleed poster billboards that your department is proposing for use in an upcoming billboard campaign in North Dakota. There has not been any other billboard company in North Dakota supplying these poster structures for more than ten years.

There are four other billboard companies currently doing business in North Dakota, however, those four companies provide only the more permanent painted bulletin faces to their customers. Newman Outdoor Advertising is the only company in North Dakota which offers the full range of billboard types, including bleed poster, bulletin, and digital faces.

If you have any questions in this regard, please feel free to contact me.

Sincerely,



Bruce Strinden  
Bismarck Division  
Newman Outdoor Advertising  
701-226-6555 - cell  
[bruce.newman@midconetwork.com](mailto:bruce.newman@midconetwork.com)

**NEWMAN**  
**OUTDOOR**  
**ADVERTISING**

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