Guidelines to IT Procurement

July 2024

OVERVIEW

Effective IT procurement is essential to maximize the value of the State's IT investments. With the increasingly integrated role of technology, it is crucial to ensure that IT procurement aligns with an agency's overall strategy and successfully meets its business needs. The IT procurement process ensures compliance with IT standards, consistency with enterprise architecture, conformance to agency IT plans, and adherence to procurement best practices. This approach enables agencies to make informed decisions, reduce risks, and optimize their IT investments.

These guidelines are established by North Dakota Information Technology and the Office of Management and Budget State Procurement Office.

PLANNING FOR AN IT PURCHASE

If you have a IT business need or are planning an IT procurement, submit a North Dakota Information Technology (NDIT) Self-Service Portal Initiative Intake Request and a NDIT Customer Success Manager (CSM) will contact you. NDIT will help you determine if your business needs can be met by an existing IT source or new IT procurement.

Before starting an IT procurement, the following activities may need to be performed depending on the cost and complexity of the procurement:

- Market research
- Business Process Modeling (BPM)
- Business analysis to create outcome-focused requirements

EXISTING IT SOURCES

Using an existing IT source saves time and money and some are mandatory. The procurement and contract negotiation have been completed and volume pricing may be available.

An NDIT IT Review is still required prior to the purchase using an existing IT source.

NDIT Services: Agencies can obtain IT services from NDIT. An agency can also solicit bids or proposals from NDIT during a competitive solicitation.

State Contracts: Agencies can obtain hardware and software from State Contracts. The contract summary describes what is offered, any special procedures, and the contact person.

Mandatory IT Sources:

- Application and Hosting Services: Agencies, unless exempted, must obtain application and hosting services through NDIT per NDCC § 54-59-22.

- Desktop Support Services: Specific agencies must obtain centralized desktop support services from NDIT per NDCC § 54-59-22.1. NDIT's service provides a holistic approach to managing all of the personal computing devices within an organization, including laptops, desktops, tablets, and mobile phones.

- Telecommunication and Network Equipment and Services: All telecommunication and network equipment and services must be purchased through NDIT's communication services, including telephones and telephone systems (other than cellular phones), automated attendant systems, call sequencers, lines, circuits, all data and video communication equipment and services, routers, switches, and data circuits per NDCC § 54-59-05.

IT PROCUREMENT

If your IT business need cannot be met by an existing NDIT service or state contract, you can initiate a new purchase following IT procurement procedures.

NDIT is responsible for reviewing and approving all IT procurements by state agencies per NDCC § 54-59-05 (5). To fulfill this obligation, agencies must initiate an IT Review for all new IT procurements. If the purchase is not in conformance or compliance, NDIT may disapprove the purchase, ask for changes to be made, or require justification for the departure from standards. Involve NDIT early to streamline your IT purchases.

The NDIT IT Review may consist of the following:

- Cataloging the IT Solution
- Evaluating and tracking compliance with the IT Standards
- Assessing consistency with enterprise architecture
- Verifying if Third-Party Risk Management (TPRM) applies
- Confirming adherence to IT procurement best practices

IT PROCUREMENT PROCESSES

Any IT acquisition/purchase - Initiate NDIT IT Review

Competitive Solicitations - Use IT Templates for Levels 2, 3, 4, & Major IT
1) Initiate NDIT IT Review
2) Collaborate with NDIT and SPO to draft the solicitation using the latest IT Solicitation Templates
3) Release of approved solicitation via SPO Online
4) Evaluate proposed solutions – Business and IT perspectives
5) Select solution, subject to NDIT Approval
6) Notice of Intent to Award
7) Contract Negotiations
   a. NDIT Review of Contract and SOW

b. Collaborate with SPO Procurement, Legal Counsel and OMB Risk Management, as needed

8) Contract Execution

Alternate Procurement (AP)

1) Initiate NDIT IT Review
2) Submit request using State Procurement Work Request System
3) If approved, Contract Negotiations
   a. NDIT Review of Contract and SOW
   b. Collaborate with SPO Procurement, Legal Counsel, and OMB Risk Management, as needed
4) Contract Execution

IT PROJECTS PROCUREMENTS

IT purchases that occur within the context of IT Projects may trigger additional requirements that the agency must follow per the Project Management for Information Technology Standard.

Projects Over $500,000

- Collaboration between the agency, NDIT, and OMB, in consultation with the Attorney General is required on the procurement, contract negotiations, and contract administration
- Executive Steering Committee (ESC) is established to oversee the project per NDCC § 54-59-32
- Contract and amendments must be signed by agency head and NDIT Chief Information Officer or respective designees

LIMITATION OF LIABILITY

When reviewing IT vendor responses and contracts, watch for "limitation of liability language. Be sure legal counsel reviews these documents during evaluation and prior to your agency signing. An agency has limited authorization to agree to limit a contractor's liability for purchases related to software, communication, or electronic equipment per NDCC § 32-12.2-15. The agency must prepare written documentation, in consultation with OMB Risk Management Division and the Attorney General's Office, before agreeing to any liability limitation. Use the Limitation of Liability Template.

IT CONTRACTS WITH RENEGOTIATION PROVISIONS

When contracting for IT solutions that are expected to be used for an extended period, it is appropriate to include a renegotiation option in the solicitation and contract. The Office of the Attorney General contract drafting manual provides guidance on the appropriate use of this clause and recommended language.

Begin the renegotiation process well in advance of the contract expiration to avoid a contract lapse. Typically, the renegotiation option is used to amend IT contracts to add additional term, renewals, extensions, and update cost for the new term (to align with what is allowed in the contract such as the Consumer Price Index (CPI), max percentage, etc.). In rare situations, an IT contract is "renegotiated" by entering into a brand-new contract. If the IT contract is for a major IT project and there is a need to enter into a new contract using the renegotiation option, consult NDIT and the State Procurement Office to determine whether the requirements of N.D.C.C. § 54-59-32 apply to the contract renegotiation and signature requirements.

IT Review through NDIT, which includes Third-Party Risk Management (TPRM), is required when renegotiating an IT contract.

Your agency does not need to submit an alternate procurement to the State Procurement Office if you are renegotiating the IT contract for a new contract period or updated cost. Be sure to use the most current contract provisions as found in the contract drafting review manual and current contract templates.

Your agency does need to submit an alternate procurement to State Procurement Office for a "contract amendment exception" if your agency is making changes to the scope of work. Examples include adding a new module or upgrading to a different version at an additional cost.

ASSISTANCE
NDIT Procurement contact: itprocurement@nd.gov

State Procurement IT Procurement: infospo@nd.gov

IT PROCUREMENT INFORMATION AND GUIDELINES

- IT Planning and Involving ITD in Project Origination – Update Under Construction
- IT Procurement Guidelines – Update Under Construction
- IT Procurement Matrix – Update Under Construction
- IT Procurement Standard – Update Under Construction
- IT Project Management – Update Under Construction