

CHAPTER 48-05 GENERAL REGULATIONS

48-05-01. Flags displayed on public institutions. The flag of the United States of America shall be displayed upon all state institutions between the hours of nine o'clock a.m. and four o'clock p.m. of each day, weather permitting. The officials in charge of the various state institutions shall make the necessary arrangements for carrying out the provisions of this section.

48-05-02. Public institutions to use native fuel products. Repealed by S.L. 1971, ch. 457, § 1.

48-05-02.1. Purchase of coal by the state and political subdivisions. The state and all of its institutions, all political subdivisions, and all public schools, when purchasing coal for heating purposes, shall give preference to bidders supplying coal mined in North Dakota if such coal, on an aggregate basis, will provide equivalent British thermal units of heating value in comparison to coal mined elsewhere, if the total bid price of the coal mined in North Dakota and delivered is not higher than the total bid price of coal mined elsewhere and delivered, and if state air pollution permits to operate would not limit the use of North Dakota coal due to emissions limits. In evaluating the comparable price of North Dakota coal versus other coal, the state and its institutions, political subdivisions, and public schools may include any ash handling costs that may be associated with the use of North Dakota coal. The state or any of its institutions, any political subdivision, or any public school, when advertising for or reviewing bids for the purchase of coal for heating purposes, may not mandate the use of any particular type of coal or the region where the coal is to be mined.

48-05-03. Publishing proposals for fuel products in newspaper - Standard contract grade. Repealed by S.L. 1981, ch. 468, § 1.

48-05-04. Penalty for failure to use native fuel in public buildings. Repealed by S.L. 1971, ch. 457, § 1.

48-05-05. Public buildings and parks - Opening for public meetings - Penalty for violation. Repealed by S.L. 1975, ch. 106, § 673.

48-05-06. Alcoholic beverages and drugs in charitable institutions prohibited - Penalty. Every person who shall take, send, or introduce any alcoholic beverage or controlled substance into any of the buildings or upon any of the premises of any charitable institution of this state, or of any county, or city thereof, except upon the express authority of the physician or chief executive officer of such institution, given in writing, is guilty of a class A misdemeanor. As used in this section, "controlled substance" has the meaning provided in section 19-03.1-01, and includes counterfeit substances as defined in section 19-03.1-01.

48-05-07. Authority to designate areas for smoking or nonsmoking of tobacco products in publicly owned buildings. Repealed by S.L. 1977, ch. 224, § 4.

48-05-08. Penalty. Repealed by S.L. 1977, ch. 224, § 4.

48-05-09. Definitions. In sections 48-05-09 through 48-05-13, unless the context otherwise requires:

1. "Energy conservation measure" means a training program or facility alteration intended to reduce energy consumption or operating costs, including the following:
 - a. Insulation of the building or any structure associated with the building.
 - b. Window or door modifications that reduce energy consumption.
 - c. Automatic energy control systems.

- d. Replacement or modification to increase the energy efficiency of the lighting, heating, air-conditioning, or ventilating system.
 - e. Energy recovery or cogeneration systems.
2. "Governmental unit" means any instrumentality of state government or any political subdivision of the state.
 3. "Guaranteed energy savings contract" means a contract for energy conservation measures which provides that energy cost savings are guaranteed to the extent necessary to make payments for the recommended energy conservation measures.
 4. "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures.
 5. "Request for proposals" means a procurement announcement through a public notice from a governmental unit, which will administer the program, detailing the work, service, or supplies needed for an energy conservation measure. The request for proposals must include:
 - a. The name and address of the governmental unit.
 - b. The name, address, title, and phone number of a contact person.
 - c. The response due date and time deadline.
 - d. The scope of the project.
 - e. The project completion deadline.
 - f. The criteria for awarding a contract.
 - g. The right to reject the request for proposals.
 - h. Other stipulations and clarifications as required.

48-05-10. Energy conservation measure recommendations. Before entering into a contract under section 48-05-11, a governmental unit shall submit a request for proposals. Upon receipt of the request for proposals, the governmental unit shall evaluate all reports from qualified providers which summarize estimates of all costs of installations, modifications, or remodeling, including costs of design, engineering, installation, maintenance, repairs, or debt service, and estimates of the amounts by which energy or operating costs will be reduced. If technical assistance is not available by a licensed architect or registered professional engineer on the governmental unit staff, then the evaluation of this report must be done by a registered professional engineer or architect, who is to be retained by the governmental unit. The governmental unit may pay a reasonable fee for preparation of the report or include the fee as part of a contract under section 48-05-11.

48-05-11. Guaranteed energy savings contracts. The governmental unit shall provide public notice of the meeting at which it proposes to award a guaranteed energy savings contract, the names of the parties to the proposed contract, and the purpose of the contract. After reviewing the report under section 48-05-10, a governmental unit may enter a guaranteed energy savings contract with a qualified provider if the governmental unit finds that the amount the governmental unit would spend on the energy conservation measures recommended in the report is not likely to exceed the amount to be saved in energy and operation costs over a period not exceeding fifteen years from the date of installation if the recommendations in the report are followed. The contract must include a written guarantee of the qualified provider that the energy and operating cost-savings will meet or exceed the costs of the system. The written guarantee must be for a period equal to the financing period, which may provide payments over a period not

exceeding fifteen years. If the governmental unit can document that savings meet or exceed the payment for a period of not less than three years, the governmental unit may request a waiver of the guaranteed portion of the contract for the remainder of the financing term. A guarantee waiver request must be approved by a committee administered by the division of community services. If the contract involves facility alteration or real property improvement, a qualified provider to whom the contract is awarded shall give a sufficient bond to the governmental unit for the faithful performance of the contract.

48-05-12. Competitive bidding and architect and engineering services. Guaranteed energy savings contracts are not subject to the requirements of chapter 48-01.2, which relate to competitive bidding, and are not subject to section 43-19.1-28.

48-05-13. Appropriations for contract payments. The governmental unit shall include in its annual appropriations measure for each later biennium or fiscal year any amounts payable under guaranteed energy savings contracts during the biennium or fiscal year.