

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 19*

Short Title: Bid Rejection Standard Clarified.

(Public)

Sponsors: Representatives Nye; H. Hunter, Wainwright, Dickson, Warner, Russell, and Smith.

Referred to: State Government.

February 1, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE LAW WITH REGARD TO THE REJECTION OF
3 COMPETITIVE BIDS FOR GOODS AND SERVICES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 143-52 reads as rewritten:

6 "**§ 143-52. Competitive bidding procedure; consolidation of estimates by**
7 **Secretary; bids; awarding of contracts.**

8 As feasible, the Secretary of Administration will compile and consolidate all such
9 estimates of supplies, materials, equipment and contractual services needed and required
10 by State departments, institutions and agencies to determine the total requirements of
11 any given commodity. Where such total requirements will involve an expenditure in
12 excess of the expenditure benchmark established under the provisions of G.S. 143-53.1
13 and where the competitive bidding procedure is employed as hereinafter provided,
14 sealed bids shall be solicited by advertisement in a newspaper of statewide circulation at
15 least once and at least 10 days prior to the date designated for opening of the bids and
16 awarding of the contract: Provided, other methods of advertisement may be adopted by
17 the Secretary of Administration when such other method is deemed more advantageous
18 for certain items or commodities. Regardless of the amount of the expenditure, under
19 the competitive bidding procedure it shall be the duty of the Secretary of Administration
20 to solicit bids direct by mail from qualified sources of supply. Except as otherwise
21 provided under this Article, contracts for the purchase of supplies, materials or
22 equipment shall be based on competitive bids and acceptance made of the lowest and
23 best bid(s) most advantageous to the State as determined upon consideration of the

1 following criteria: prices offered; the quality of the articles offered; the general
2 reputation and performance capabilities of the bidders; the substantial conformity with
3 the specifications and other conditions set forth in the request for bids; the suitability of
4 the articles for the intended use; the personal or related services needed; the
5 transportation charges; the date or dates of delivery and performance; and such other
6 factor(s) deemed pertinent or peculiar to the purchase in question, which if controlling
7 shall be made a matter of record. Competitive bids on such contracts shall be received
8 in accordance with rules and regulations to be adopted by the Secretary of
9 Administration, which rules and regulations shall prescribe for the manner, time and
10 place for proper advertisement for such bids, the time and place when bids will be
11 received, the articles for which such bids are to be submitted and the specifications
12 prescribed for such articles, the number of the articles desired or the duration of the
13 proposed contract, and the amount, if any, of bonds or certified checks to accompany
14 the bids. Bids shall be publicly opened. Any and all bids received may be ~~rejected~~.
15 rejected if the Secretary of Administration or any employee of the Division of Purchase
16 and Contract make written findings that it is in the best interest of the State to do so.
17 Each and every bid conforming to the terms of the invitation, together with the name of
18 the bidder, shall be tabulated or otherwise entered as a matter of record, and all such
19 records with the name of the successful bidder indicated thereon shall, after the award
20 of the contract, be open to public inspection. Provided, that trade secrets, test data and
21 similar proprietary information may remain confidential. A bond for the faithful
22 performance of any contract may be required of the successful bidder at bidder's
23 expense and in the discretion of the Secretary of Administration. After contracts have
24 been awarded, the Secretary of Administration shall certify to the departments,
25 institutions and agencies of the State government the sources of supply and the contract
26 price of the supplies, materials and equipment so contracted for. Prior to adopting other
27 methods of advertisement under this section, the Secretary of Administration may
28 consult with the Advisory Budget Commission. Prior to adopting rules and regulations
29 under this section, the Secretary of Administration may consult with the Advisory
30 Budget Commission."

31 Sec. 2. This act becomes effective July 1, 1993.