

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 196
HOUSE BILL 882

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO AUTHORIZE THE CITY TO PURCHASE TELECOMMUNICATIONS, DATA PROCESSING AND DATA COMMUNICATIONS EQUIPMENT, SUPPLIES AND SERVICES ON A REQUEST FOR PROPOSAL BASIS.

The General Assembly of North Carolina enacts:

Section 1. Subchapter E, Chapter IX of the Charter of the City of Charlotte, being Chapter 713, Session Laws of 1965, as amended, is amended by adding a new section to read:

"Sec. 9.85. Exemption From Certain Purchasing Requirements.

- (a) Because of the:
 - (1) Highly complex and innovative nature of telecommunications, data processing and data communications equipment, supplies and services; and
 - (2) Desirability of a single point of responsibility for the development of contracts for products and services which include in their scope combinations of design, installation, operation, management, and service and maintenance responsibilities over prolonged periods of time in some instances it may be beneficial to the City to award a contract on the basis of factors other than cost alone, including but not limited to, (i) system design, (ii) operation experience, (iii) system reliability, (iv) long-term operational costs, (v) compatibility with existing equipment, and (vi) emerging technology. Therefore, notwithstanding the provisions of Article 8 of Chapter 143 of the General Statutes, or any other general, special, or local law, a contract entered into between the City and any person selected as a responsible proposer pursuant to this section may be awarded, negotiated, and entered into in accordance with the following provisions for the award of a contract based upon an evaluation of proposals submitted in response to a request for proposals prepared by or for the City.
- (b) This section establishes special procedures for the purchase and lease of telecommunications, data processing and data communications equipment, supplies and services, and applies only to those purchases and leases.
- (c) The City shall give notice that it is requesting proposals as follows:

- (1) By mailing notice of request for proposals a minimum of 10 days prior to the time specified for opening of said proposal to suppliers represented on the City's current relevant bid list; and
- (2) By advertisement at least one week before the time specified for the opening of said proposals in a newspaper having general circulation in the City. The advertisement shall state the time and place where the request for proposals may be had, and the time and place for opening of said proposals, and shall reserve to the City the right to reject any or all such proposals.

All proposals shall be opened in public. Proposals shall be sealed if the invitation to propose so specifies.

(d) The City shall require in its request for proposals that each proposal to be submitted:

- (1) Shall include:
 - a. Information relating to the experience of the proposer on the basis of which said proposer purports to be qualified to carry out all work required by a proposed contract;
 - b. The ability of the proposer to secure adequate financing;
 - c. Proposals for project staffing, implementation of work tasks, and the carrying out of all responsibilities required by a proposed contract;
- (2) Language clearly identifying and specifying all elements of cost which would become charges to the City, in whichever form, in return for the fulfillment by the proposer of all tasks and responsibilities established by the request for the proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to, (i) the cost of purchase or lease of equipment, (ii) the cost of design, installation, operation, management, and maintenance of any system, and (iii) the cost of any services performed by proposer; and
- (3) Shall include such other information as the City may determine to have a material bearing on its ability to evaluate any proposal in accordance with this section.

The City may prescribe the form and content of such proposal and, in any event, the proposer must submit sufficiently detailed information to permit a fair and equitable evaluation of such proposal. The City may evaluate such proposals based on one or more of the factors set forth above as the City determines to be appropriate.

(e) The City may make a contract award to any responsible proposer selected pursuant to this section based on a determination that the selected proposal is more responsive to the request for proposals and may thereupon negotiate a contract with said proposer for the purchase and/or lease of equipment and performance of the services set forth in the request for proposals and the response thereto. Such determination is conclusive."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd day of June, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives