

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1170
State and Local Government Committee Substitute Adopted 7/24/02

Short Title: Local Gov't Reverse Auctions.

(Public)

Sponsors:

Referred to:

June 5, 2002

1 A BILL TO BE ENTITLED
2 AN ACT AUTHORIZING ADDITIONAL METHODS FOR BIDDING ON PUBLIC
3 PROCUREMENT CONTRACTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 8 of Chapter 143 of the General Statutes is amended by
6 adding a new section to read:

7 "§ 143-129.9. Alternative competitive bidding methods.

8 (a) A political subdivision of the State may use any of the following methods to
9 obtain competitive bids for the purchase of apparatus, supplies, materials, or equipment
10 as an alternative to the otherwise applicable requirements in this Article:

11 (1) Reverse auction. – For purposes of this section, "reverse auction"
12 means a real-time purchasing process in which bidders compete to
13 provide goods at the lowest selling price in an open and interactive
14 environment. The bidders' prices may be revealed during the reverse
15 auction. A reverse auction may be conducted by the political
16 subdivision or by a third party under contract with the political
17 subdivision. A political subdivision may also conduct a reverse auction
18 through the State electronic procurement system, and compliance with
19 the procedures and requirements of the State's reverse auction process
20 satisfies the political subdivision's obligations under this Article.

21 (2) Electronic bidding. – A political subdivision may receive bids
22 electronically in addition to or instead of paper bids. Procedures for
23 receipt of electronic bids for contracts that are subject to the
24 requirements of G.S. 143-129 shall be designed to ensure the security,
25 authenticity, and confidentiality of the bids to at least the same extent
26 as is provided for with sealed paper bids.

27 (b) The requirements for advertisement of bidding opportunities, timeliness of
28 the receipt of bids, the standard for the award of contracts, and all other requirements in

1 this Article that are not inconsistent with the methods authorized in this section shall
2 apply to contracts awarded under this section.

3 (c) Reverse auctions shall not be utilized for the purchase or acquisition of
4 construction aggregates, including, but not limited to, crushed stone, sand, and gravel."

5 **SECTION 2.** G.S. 143-53(a)(5) reads as rewritten:

6 "(5) Prescribing conditions under which purchases and contracts for the
7 purchase, installment or lease-purchase, rental or lease of equipment,
8 materials, supplies or services may be entered into by means other than
9 competitive ~~bidding.~~ bidding, including, but not limited to,
10 negotiation, reverse auctions, and acceptance of electronic bids.
11 Reverse auctions may only be utilized for the purchase or exchange of
12 supplies, equipment, and materials as provided in G.S. 115C-522.
13 Notwithstanding the provisions of subsections (a) and (b) of this
14 section, any waiver of competition for the purchase, rental, or lease of
15 equipment, materials, supplies, or services is subject to prior review by
16 the Secretary, if the expenditure exceeds ten thousand dollars
17 (\$10,000). The Division may levy a fee, not to exceed one dollar
18 (\$1.00), for review of each waiver application."

19 **SECTION 3.** Notwithstanding any other provision of law to the contrary, the
20 Secretary may conduct a pilot program for reverse auctions. The reverse auctions shall
21 be utilized only for the purchase or exchange of those supplies, equipment, and
22 materials as provided in G.S. 115C-522, for use by the public school systems. The
23 Secretary shall report the results of the pilot program to the Joint Select Committee on
24 Information Technology, upon the convening of the 2003 General Assembly.

25 **SECTION 4.** G.S. 147-33.95 reads as rewritten:

26 "**§ 147-33.95. Procurement of information technology.**

27 (a) Notwithstanding any other provision of law, the Office of Information
28 Technology Services shall procure all information technology for State agencies. For
29 purposes of this section, agency means any department, institution, commission,
30 committee, board, division, bureau, office, officer, or official of the State, unless
31 specifically exempted in this Article. The Office shall integrate technological review,
32 cost analysis, and procurement for all information technology needs of those State
33 agencies in order to make procurement and implementation of technology more
34 responsive, efficient, and cost-effective. All contract information shall be made a matter
35 of public record after the award of contract. Provided, that trade secrets, test data,
36 similar proprietary information, and security information protected under G.S.
37 132-6.1(c) may remain confidential.

38 (b) The Office shall have the authority and responsibility, subject to the
39 provisions of this Part, to:

40 (1) Purchase or to contract for, by suitable ~~means~~ means, including, but
41 not limited to, negotiations, reverse auctions, and the solicitation,
42 offer, and acceptance of electronic bids, and in conformity with G.S.
43 143-135.9, all information technology in the State government, or any
44 of its departments, institutions, or agencies covered by this Part, or to

1 authorize any department, institution, or agency covered by this Part to
2 purchase or contract for such information technology.

3 (2) Establish processes, specifications, and standards which shall apply to
4 all information technology to be purchased, licensed, or leased in the
5 State government or any of its departments, institutions, or agencies
6 covered by this Part.

7 (3) Comply with the State government-wide technical architecture, as
8 required by the Information Resources Management Commission.

9 (c) For purposes of this section, "reverse auction" means a real time purchasing
10 process in which vendors compete to provide goods or services at the lowest selling
11 price in an open and interactive electronic environment. The vendor's price may be
12 revealed during the reverse auction. The Office may contract with a third-party vendor
13 to conduct the reverse auction.

14 (d) For purposes of this section, "electronic bidding" means the electronic
15 solicitation and receipt of offers to contract. Offers may be accepted and contracts may
16 be entered by use of electronic bidding.

17 (e) The Office may use the electronic procurement system established by G.S.
18 143-48.3 to conduct reverse auctions and electronic bidding. All requirements relating
19 to formal and competitive bids, including advertisement, seal, and signature, are
20 satisfied when a procurement is conducted or a contract is entered in compliance with
21 the reverse auction or electronic bidding requirements established by the Office.

22 (f) The Office may adopt rules consistent with this section."

23 **SECTION 5.** This act is effective when it becomes law.