

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 906
Apr 11, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH10291-LR-74B (02/27)

Short Title: N.C. Public Contractor Safety Act.

(Public)

Sponsors: Representative Luebke.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE PREQUALIFICATION OF BIDDERS ON PUBLIC
3 CONSTRUCTION PROJECTS AS TO OCCUPATIONAL HEALTH AND SAFETY
4 COMPLIANCE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-135.8 reads as rewritten:

7 "§ 143-135.8. Prequalification.

8 (a) Bidders may be prequalified for any public construction project.

9 (b) The North Carolina Department of Labor (NCDOL) shall develop a standardized
10 questionnaire and rating system to assess bidders on objective metrics of occupational safety
11 and health performance for the purpose of prequalifying bidders and their subcontractors on
12 construction contracts. The NCDOL shall consult with occupational safety and health
13 professionals, construction contractors, building trades unions, affected awarding authorities,
14 and any other interested parties in developing these materials. The NCDOL shall also review
15 relevant scientific literature, national consensus standards, and federal Occupational Safety and
16 Health Administration guidance documents to determine key occupational safety and health
17 performance metrics for the purposes of this Part. The questionnaire and rating system will be
18 effective January 1, 2014, and shall include, but not be limited to, assessment of the following
19 for each bidder and subcontractor: (i) safety and health planning, (ii) management leadership,
20 (iii) employee participation, (iv) employee training, (v) supervisor accountability, (vi)
21 compliance record, and (vii) other factors to assess occupational health and safety performance.
22 The NCDOL shall determine the minimum score a bidder and its subcontractors must attain on
23 the rating system to be eligible to bid on public construction contracts.

24 Any awarding authority soliciting bids for construction contracts shall require that each
25 prospective bidder and all of its subcontractors complete and submit the safety prequalification
26 questionnaire along with any documentary evidence required to substantiate claims made in the
27 questionnaire. The bidder shall attest to the accuracy and completeness of all information
28 submitted in this Part under penalty of perjury. Any awarding authority soliciting bids for
29 construction contracts shall require the bidder to develop and implement a whistle-blower
30 policy regarding workplace safety and health that requires all directors, officers, and employees
31 to observe high standards of business and personal ethics in the conduct of their duties and
32 responsibilities. This policy shall include, but not be limited to, describing reporting
33 responsibilities, reporting process, confidentiality protections, employee education regarding
34 the policy, retaliation prohibitions, identifying a compliance officer, and an annual review of
35 the program's effectiveness. Any bidder shall be ineligible to submit a bid on or be awarded any



1 construction contract if that bidder or any of its subcontractors do not meet the minimum
2 standards of the awarding authority's safety prequalification assessment. Each awarding
3 authority shall allow bidders and subcontractors the opportunity to apply for safety
4 prequalification at least once every six months. Awarding authorities shall require all bidders
5 and subcontractors to undergo the safety prequalification procedure at least once per year.

6 Each bidder shall provide the awarding authority a list of all subcontractors that will
7 perform construction work for the contract. Bidders shall not permit any subcontractor that has
8 not been prequalified under this section, at a minimum, to perform construction work for the
9 contract. A bidder is ineligible to submit a bid on or be awarded any construction contract if:

10 (1) That bidder does not furnish proof of current workers' compensation
11 coverage as required under Chapter 97 of the General Statutes or

12 (2) An awarding authority has determined in the preceding five years that a
13 company officer, agent, or person with substantial ownership in the company
14 provided false or misleading information under this section.

15 Any subcontractor that would, as a bidder, be ineligible to submit a bid on or be awarded a
16 construction contract under this section shall be ineligible for prequalification by any awarding
17 authority."

18 **SECTION 2.** This act is effective when it becomes law.