

Local Government Purchasing and Contracting

Quick-Reference Tools

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Public Contracts Checklist

Basic Legal Requirements for Local Government Contracts:

1. Were all (if any) statutorily required *procurement procedures* followed? (For example, if formal or informal bidding is required, is the awardee the *lowest responsible, responsive bidder*?)
2. Is the contract required to be in *writing*?
 - ✓ Cities – all contracts must be in writing (G.S. 160A-16)
 - ✓ Conveyance of real property (including easement), mining rights, or lease exceeding 3 years (G.S. 22-2)
 - ✓ Construction contracts costing \$500,000 or more, and purchase contracts costing \$90,000 or more (G.S. 143-129)
 - ✓ Sale of goods exceeding \$500 (G.S. 25-2-201(1))
 - ✓ Other UCC and common law contract requirements
 - ✓ *NOTE:* Putting *all* contracts in writing is highly recommended
 - ✓ *NOTE:* Defects in writing requirements can be cured by Board ratification
3. Did the proper legal authority *award* the contract?
 - ✓ Governing board approval required for formal construction, informal and formal sole-source, and piggyback contracts (G.S. 143-129); and small jurisdiction exception to conflict of interest prohibition (G.S. 14-234(d1))
 - ✓ Delegated authority authorized for formal purchase contracts (G.S. 143-129)
 - ✓ Board approval is not required for informal construction and informal purchase contracts (G.S. 143-131)
 - ✓ Board approval is not required for contracts below informal range
 - ✓ Check local policies for more stringent board approval requirements
 - ✓ Confirm delegated award authority either explicitly or implicitly (best to have explicit delegation)
4. Did the proper legal authority *execute* the contract?
 - ✓ Confirm execution authority either explicitly or implicitly (best to have explicit authorization, such as by local policy or in job description)

5. If in *electronic form*, is the form valid / if an *electronic signature* is used, is it in proper form?

- ✓ Most forms of electronic transactions are valid if the parties agree (Uniform Electronic Transactions Act (Article 40, Chapter 66)
- ✓ Electronic signatures defined and authorized, and procedural requirements for use (Article 11A, Chapter 66)

6. Are all *terms and conditions* (T&Cs) current and in compliance with state law?

- ✓ Construction indemnity agreements – prohibits a party from insulating itself from its own negligence (G.S. 22B-1)
- ✓ Real property improvement dispute venue – prohibits making a contract subject to the laws of another state or setting exclusive venue in other state (G.S. 22B-2)
- ✓ Forum selection – prohibits requiring prosecution of an action or arbitration of a dispute in another state (G.S. 22B-3)
- ✓ Jury trial waiver – prohibits requiring a party to waive its right to a jury trial (does not prohibit mutually agreed to mediation, arbitration, or other alternative dispute resolution processes) (G.S. 22B-10)
- ✓ Incurring 3rd party debt – Constitutional limitations on local government indemnifying obligations of other parties (incurring debt) (N.C. Const. Art. V, Sec. 4)
- ✓ Organized Labor Restrictions – prohibits discriminating against a bidder or contractor for adhering or not adhering to an organized labor agreement (G.S. 143-133.5)
- ✓ Employment-related and public accommodation requirements – prohibits cities and counties from imposing employment-related requirements on bidders and contractors as a condition of bidding on a contract (G.S. 153A-449(a) for counties; G.S. 160A-20.1(a) for cities)
- ✓ E-Verify – Prohibits local governments from contracting with contractors and subcontractors not compliant with the state's E-Verify hiring requirement (G.S. 143-133.3)
- ✓ Iran Divestment Act – Prohibits local governments from contracting with an entity that has been identified by the NC State Treasurer's Office as engaging in Iranian investment activities (G.S. 147-86.60)
- ✓ Israel Boycott Contracting Prohibition – Prohibits local governments from contracting with a company that has been identified by the NC State Treasurer's Office as boycotting Israel (G.S. 147-86.82)

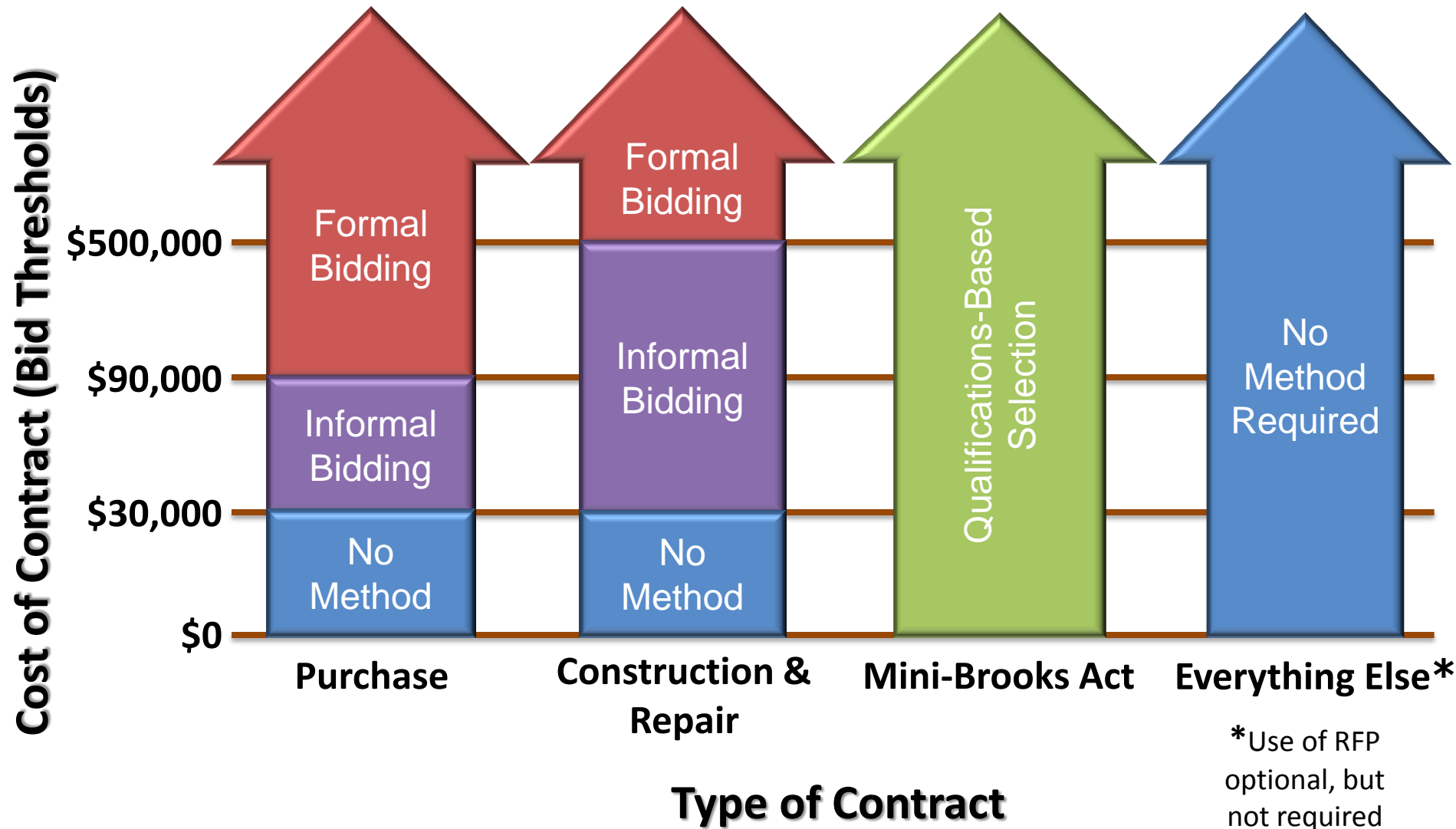
7. Does the contract include a *preaudit certificate*? (G.S. 159-28)

- ✓ Preaudit certification required for all public contracts obligating public funds to ensure that sufficient funds are available and unencumbered (G.S. 159-28(a))
- ✓ Preaudit certificate must be affixed to all contracts that are required to be in writing (see #2 above); certificate must be signed by Finance Officer or Deputy Finance

Officer; contract not containing a valid preaudit certificate is void by operation of statute

- ✓ Some question about preaudit certificate requirement if fiscal obligation is in future year (*Meyers v. Town of Plymouth*, 135 N.C. App. 707 522 S.E.2d 122 (1999)); safest course is to *always* include preaudit certificate (violation can result in personal liability for employee or officer disbursing funds)
- 8. Does the contract adequately describe or incorporate by reference the information that relates to the *scope of work* or *other details specific to the basis for the contract*?
- 9. Does the contract comply with applicable *local policies, grant rules (if grant funds are used), and federal regulations* (if federal funds are used)?
- 8. Do any *conflicts of interest* exist that would render the contract void? (G.S. 14-234) If the *small jurisdiction exception* applies, have all required procedures for contract approval been followed? (G.S. 14-234(d1))

Procurement Methods – State Law



Dollar Thresholds in North Carolina Public Contracting Statutes

Dollar limits and statutory authority current as of November 1, 2015



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Requirement	Threshold	Statute
Formal bidding	<i>(estimated cost of contract)</i>	
Construction or repair contracts	\$500,000 <i>and above</i>	G.S. 143-129
Purchase of apparatus, supplies, materials, and equipment	\$90,000 <i>and above</i>	G.S. 143-129
Informal bidding	<i>(actual cost of contract)</i>	
Construction or repair contracts	\$30,000 to formal limit	G.S. 143-131
Purchase of apparatus, supplies, materials, and equipment	\$30,000 to formal limit	G.S. 143-131
Construction methods authorized for building projects	Over \$300,000 <i>(estimated cost of project)</i>	G.S. 143-128(a1)
Separate Prime		
Single Prime		
Dual Bidding		
Construction Management at Risk (G.S. 143-128.1)		
Design-Build and Design-Build Bridging (G.S. 143-128.1A; G.S. 143-128.1B)		
Public Private Partnership (P3) (G.S. 143-128.1C)		
Historically Underutilized Business (HUB) requirements		
Building construction or repair projects		
– Projects with state funding (<i>verifiable 10% goal required</i>)	\$100,000 <i>or more</i>	G.S. 143-128.2(a)
– Locally funded projects (<i>formal HUB requirements</i>)	\$300,000 <i>or more</i>	G.S. 143-128.2(j)
– Projects in informal bidding range (<i>informal HUB requirements</i>)	\$30,000 to \$500,000*	G.S. 143-131(b)
*Note: Formal HUB requirements should be used for informally bid projects costing between \$300,000 and \$500,000		
Limit on use of own forces (force account work)	<i>(not to exceed)</i>	G.S. 143-135
Construction or repair projects	\$500,000 (<i>total project cost</i>) or \$200,000 (<i>labor only cost</i>)	
Bid bond or deposit		
Construction or repair contracts (<i>at least 5% of bid amount</i>)	Formal bids (\$500,000 <i>and above</i>)	G.S. 143-129(b)
Purchase contracts	Not required	
Performance/Payment bonds		
Construction or repair contracts (<i>100% of contract amount</i>)	Each contract over \$50,000 of project costing over \$300,000	G.S. 143-129(c); G.S. 44A-26
Purchase contracts	Not required	
General contractor's license required	\$30,000 <i>and above</i>	G.S. 87-1
Exemption	Force account work (<i>see above</i>)	
Owner-builder affidavit required	Force account work (<i>see above</i>)	G.S. 87-14(a)(1)
Use of licensed architect or engineer required		
Nonstructural work	\$300,000 <i>and above</i>	G.S. 133-1.1(a)
Structural repair, additions, or new construction	\$135,000 <i>and above</i>	
Repair work affecting life safety systems	\$100,000 <i>and above</i>	
Selection of architect, engineer, surveyor, construction manager at risk, or design-build contractor		
"Qualification-Based Selection" procedure (QBS)	All contracts unless exempted	G.S. 143-64.31
Exemption authorized	Only projects where estimated fee is <i>less than</i> \$50,000	G.S. 143-64.32

NC Procurement Requirements Summary

	Informal	Formal	QBS	RFP
Solicitation / Advertisement	Not required	Newspaper/ electronic at least 7 days before bid opening	Must “announce” requirements	Not required (IT—must advertise like formal bid)
Form / Minimum #	Any form; keep record; no minimum #	Sealed bids; 3-bid minimum for construction contracts	No specific form required; no minimum #	No form required (IT – sealed proposals)
Public bid opening	Not required	Required	Not required	Not required
Standard of Award	Lowest responsive, responsible bidder	Lowest responsive, responsible bidder	Best qualified, regardless of cost	Best meets criteria set in the RFP
Board Approval	Not required	Required (may delegate for purchases only)	Not required	Not required
Public Record	Record of bids not public until contract award	Bids public when opened	Proposals public when opened	Public when opened (IT – not public until contract award)

Note: This chart contains general summary information; relevant statutes should be consulted for more details on specific requirements.

North Carolina Public Procurement Requirements: Purchase Contracts

Contract amount: \$0 → \$30,000 → \$90,000 →			
Requirements:	No Bidding Requirements	Informal Bidding Requirements	Formal Bidding Requirements
Advertisement (G.S. 143-129)	G.S. – no ads required <i>Local policies may require specific method/timing of ad</i>		G.S. – newspaper or electronic ads (electronic only requires board approval) for full 7 days before bid opening <i>Local policies may require extra time / locations for ads</i>
Minimum # of bids (G.S. 143-132)	G.S. – no minimum <i>Local policies may require a minimum</i>		
Form of bids (G.S. 143-129, 143-131)	G.S. – no specific form required (email, phone, fax, mail all acceptable) <i>Local policies may require a specific form</i>		G.S. – bids must be sealed <i>Local policies <u>must</u> comply with G.S.</i>
Record of bids (G.S. 143-131)	G.S. – not required <i>Local policies may require a record</i>	G.S. – must keep a record of all bids received <i>Local policies <u>must</u> comply with G.S.</i>	G.S. – because bids are public, no separate record is required <i>Local policies <u>must</u> comply with G.S.</i>
Bid opening (G.S. 143-129, 143-129.9, 143-131)	G.S. – public bid opening not required <i>Local policies may require public bid opening</i>		G.S. – public bid opening required, but may use reverse auction or electronic bidding instead <i>Local policies <u>must</u> comply with G.S.</i>
Bid bonds (G.S. 143-129)	G.S. – bonds not required <i>Local policies may require bonds</i>		
Performance/payment bonds (G.S. 44A-26, 143-129)	G.S. – bonds not required <i>Local policies may require bonds</i>		
HUB participation goals (G.S. 143-128.2, 143-131)	G.S. – not required <i>Local policies may require good faith efforts/goals – check with your attorney</i>		
Board approval (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require board approval</i>		G.S. – governing board approval required; governing board may delegate approval authority to manager or other employee
Standard of award (G.S. 143-129, 143-131)	G.S. – no standard given <i>Local policies may require a specific standard</i>	G.S. – award to lowest responsive, responsible bidder <i>Local policies <u>must</u> comply with G.S.</i>	
Public records (G.S. 132-1, 132-6, 143-131)	G.S. – bids become public record when received <i>Local policies <u>must</u> comply with G.S.</i>	G.S. – record of bids not subject to public inspection until contract award <i>Local policies may permit public inspection before award</i>	G.S. – bids become public record once opened <i>Local policies <u>must</u> comply with G.S.</i>

North Carolina Public Procurement Requirements: Construction and Repair Contracts

Contract amount: \$0 → \$30,000 → \$500,000 →				
Requirements:	No Bidding Requirements		Informal Bidding Requirements	Formal Bidding Requirements
Advertisement (G.S. 143-129)	G.S. – no ads required <i>Local policies may require specific method/timing of ad</i>			G.S. – newspaper or electronic ads for full 7 days before bid opening (board approval for electronic only) <i>Local policies may require extra time / locations for ads</i>
Minimum # of bids (G.S. 143-132)	G.S. – no minimum <i>Local policies may require a minimum</i>			G.S. – minimum of three bids is required <i>Local policies may require more than three bids</i>
Form of bids (G.S. 143-129, 143-131)	G.S. – no specific form required (email, phone, fax, mail all acceptable) <i>Local policies may require a specific form</i>			G.S. – bids must be sealed <i>Local policies <u>must</u> comply with G.S.</i>
Record of bids (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require a record</i>	G.S. – must keep a record of all bids received <i>Local policies <u>must</u> comply with G.S.</i>		G.S. – because bids are public, no separate record is required <i>Local policies <u>must</u> comply with G.S.</i>
Bid opening (G.S. 143-129, 143-131)	G.S. – public bid opening not required <i>Local policies may require public bid opening</i>			G.S. – public bid opening required <i>Local policies <u>must</u> comply with G.S.</i>
Bid bonds/deposit (G.S. 143-129)	G.S. – bid bonds not required <i>Local policies may require bid bonds</i>			G.S. – bid bond/deposit (5% of bid amount) are required <i>Local policies may require more than 5%</i>
Performance/payment bonds (G.S. 44A-26, 143-129)	G.S. – performance and payment bonds are not required <i>Local policies may require bonds</i>	G.S. – Performance and payment bonds are required (100% of bid amount) for contracts costing more than \$50,000 that are part of a project costing more than \$300,000 <i>Local policies <u>must</u> comply with GS</i>		
HUB participation goals (G.S. 143-128.2, 143-131)	G.S. – not required <i>Local policies may require good faith efforts/goals – consult local attorney</i>			
Separate specifications (G.S. 143-128)	G.S. – separate specifications not required <i>Local policies may require separate specifications</i>			
Licensed contractor (G.S. 87-1, 87-1.1, 143-139.1)	G.S. – must use a licensed general contractor if the contract is part of a project worth more than \$30K <i>Local policies <u>must</u> comply with G.S.</i>			
Construction methods (G.S. 143-128)	G.S. – no specific methods must be used <i>Local policies may require specific methods – consult local attorney</i>			
Board approval (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require board approval</i>			G.S. – board approval required; cannot be delegated <i>Local policies <u>must</u> comply with G.S.</i>
Standard of award (G.S. 143-129, 143-131)	G.S. – no standard given <i>Local policies may require a specific standard</i>	G.S. – award to lowest responsive, responsible bidder <i>Local policies <u>must</u> comply with G.S.</i>		
Public records (G.S. 132-1, 132-6, 143-131)	G.S. – bids become public record when received <i>Local policies <u>must</u> comply with G.S.</i>	G.S. – record of bids not subject to public inspection until contract award <i>Local policies may permit public inspection before award</i>		G.S. – bids become public record once opened <i>Local policies <u>must</u> comply with G.S.</i>

* * * See next page for additional requirements for construction and repair contract involving buildings * * *

Source: Youens, Eileen, *Local Government Purchasing and Contracting Update: Statutory Requirements and Local Policies*, Local Government Law Bulletin #118, UNC School of Government, February 2009.

Refer to NC General Statute citation ("G.S.") for specific details and exceptions.

North Carolina Public Procurement Requirements: Building Construction and Repair Contracts

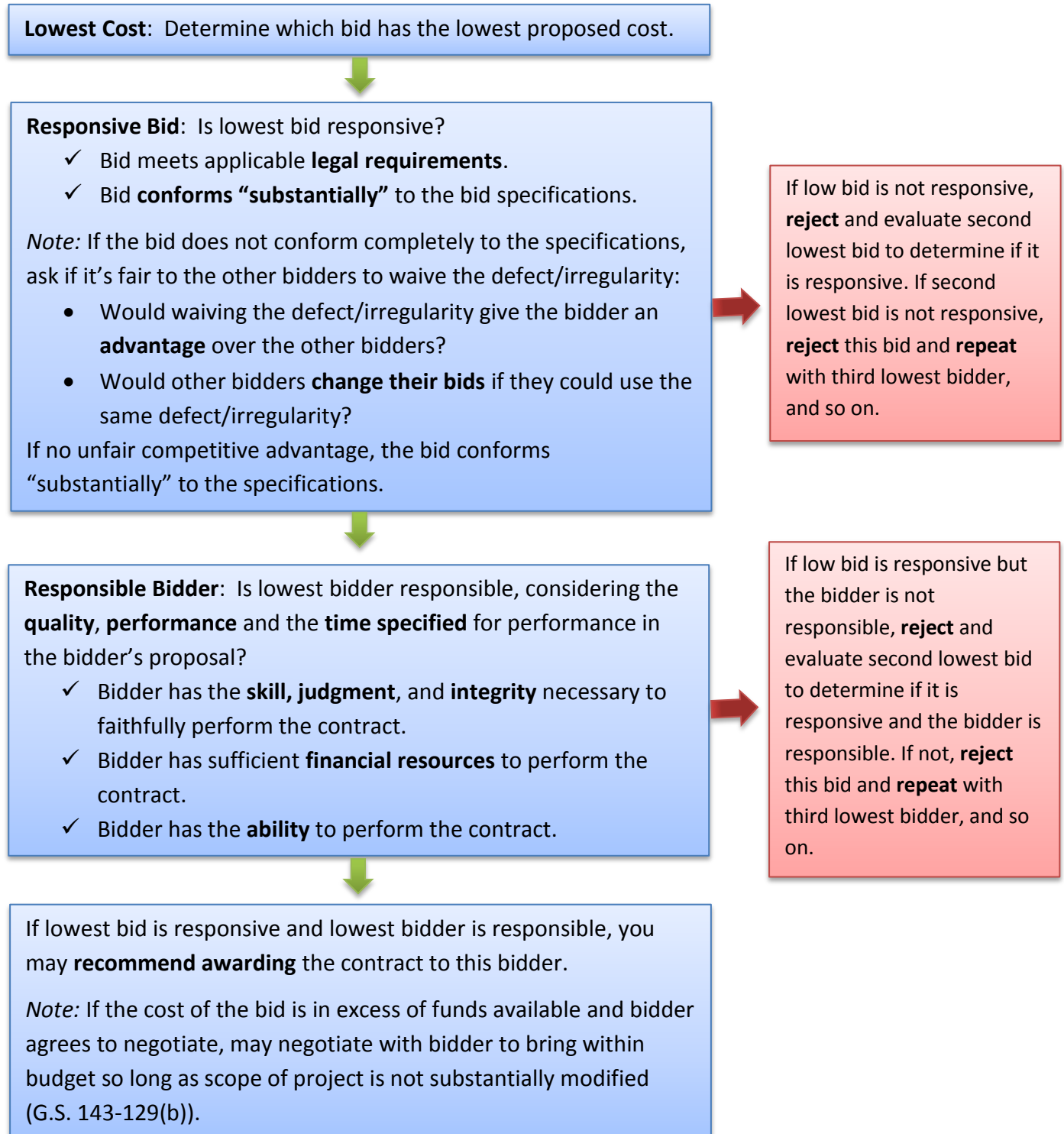
Contract amount: \$0 → \$30,000 → \$300,000 → \$500,000 →					
Requirements:	No Bidding Requirements		Informal Bidding Requirements	HUB & Construction Method Requirements	Formal Bidding Requirements
Advertisement (G.S. 143-129)	G.S. – no ads required <i>Local policies may require specific method/timing of ads</i>				G.S. – newspaper or electronic ads for full 7 days before bid opening (board approval for electronic only) <i>Local policies may require extra time / locations for ads</i>
Minimum # of bids (G.S. 143-132)	G.S. – no minimum <i>Local policies may require a minimum</i>				G.S. – minimum of three bids is required <i>Local policies may require more than three bids</i>
Form of bids (G.S. 143-129, 143-131)	G.S. – no specific form required (email, phone, fax, mail all acceptable) <i>Local policies may require a specific form</i>				G.S. –bids must be sealed <i>Local policies <u>must</u> comply with G.S.</i>
Record of bids (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require a record</i>	G.S. – must keep a record of all bids received <i>Local policies <u>must</u> comply with G.S.</i>			G.S. – because bids are public, no separate record is required. <i>Local policies <u>must</u> comply with G.S.</i>
Bid opening (G.S. 143-129, 143-131)	G.S. – public bid opening not required <i>Local policies may require a public bid opening</i>				G.S. – public bid opening required <i>Local policies <u>must</u> comply with G.S.</i>
Bid bonds/deposit (G.S. 143-129)	G.S. – bid bonds not required <i>Local policies may require bid bonds</i>				G.S. – bid bond/deposit (5% of bid amount) required <i>Local policies may require more than 5%</i>
Performance/payment bonds (G.S. 44A-26, 143-129)	G.S. – performance and payment bonds are not required. <i>Local policies may require bonds</i>	G.S. – Performance and payment bonds are required (100% of bid amount) for contracts costing more than \$50,000 that are part of a project costing more than \$300,000. <i>Local policies <u>must</u> comply with GS</i>			
HUB participation goals (G.S. 143-128.2, 143-131)	G.S. – not required unless part of State-funded project worth \$100,000 or more <i>Local policies may require good faith efforts/goals for other projects</i>	G.S. – document good faith efforts; report to HUB <i>Local policies <u>must</u> comply with G.S.</i>	G.S. – good faith efforts to reach goals; bidders must submit affidavits so local government can verify bidders’ good faith efforts; report to HUB <i>Local policies <u>must</u> comply with G.S.</i>		
Separate specifications (G.S. 143-128)	G.S. – separate specs not required <i>Local policies may require separate specs</i>			G.S. – separate specs required for plumbing, electrical, HVAC, and general <i>Local policies may require additional specs</i>	
Licensed contractor (G.S. 87-1, 87-1.1, 143-139.1)	G.S. – must use licensed general contractor if part of a project worth more than \$30K <i>Local policies <u>must</u> comply with G.S.</i>				
Construction methods (G.S. 143-128)	G.S. – no specific methods must be used <i>Local policies may require specific methods</i>			G.S. – must use single-prime, separate-prime, dual prime, or construction management at risk; alternate methods may only be used if approved by the State Building Commission or authorized by local act <i>Local policies <u>must</u> comply with G.S.</i>	
Board approval (G.S. 143-129, 143-131)	G.S. – not required <i>Local policies may require board approval</i>				G.S. – board approval required; cannot be delegated <i>Local policies <u>must</u> comply with G.S.</i>
Standard of award (G.S. 143-129, 143-131)	G.S. – no standard given <i>Local policies may require a specific standard</i>	G.S. – award to lowest responsive, responsible bidder <i>Local policies <u>must</u> comply with G.S.</i>			
Public records (G.S. 132-1, 132-6, 143-131)	G.S. – bids become public record when received. <i>Local policies <u>must</u> comply with G.S.</i>	G.S. – record of bids not subject to public inspection until contract award <i>Local policies may permit public inspection before award</i>			G.S. – bids become public record once opened <i>Local policies <u>must</u> comply with G.S.</i>

Source: Youens, Eileen, *Local Government Purchasing and Contracting Update: Statutory Requirements and Local Policies*, Local Government Law Bulletin #118, UNC School of Government, February 2009.

Refer to NC General Statute citation (“G.S.”) for specific details and exceptions.

Awarding Competitively Bid Contracts

Lowest Responsive Responsible Bidder Flowchart



References:

G.S. 143-128, 143-129, 143-131; *Professional Food Services Management v. North Carolina Department of Administration*, 109 N.C. App. 265, 426 S.E.2d 447 (1993); *Kinsey Contracting Co. v. City of Fayetteville*, 106 N.C. App. 383, 416 S.E.2d 607, disc. review denied, 332 N.C. 345, 431 S.E.2d 149 (1992). For additional information, see Frayda S. Bluestein, “Understanding the Responsiveness Requirement in Competitive Bidding,” Local Government Law Bulletin No. 102 (May 2002), available at <http://www.sog.unc.edu/pubs/electronicversions/pdfs/lglb102.pdf>.



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
Purchases				
Purchase from other units of Government G.S. 143-129(e)(1)	Informal and formal purchases and leases	Purchase directly from another unit of federal, state, or local government anywhere in the U.S.	No	None
Emergency G.S. 143-129(e)(2)	Informal and formal purchases and construction/repair	Present, immediate, and existing special emergency involving public health and safety of people or property	No	None
Fuel Purchase G.S. 143-129(e)(5)	Informal and formal purchases	Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas	No	Informal bidding requirements apply to purchases costing \$30,000 or more (including purchases over \$90,000)
Sole Source G.S. 143-129(e)(6)	Informal and formal purchases	Available when (1) performance or price competition is not available; (2) product is available from only one source; or (3) standardization or compatibility is the overriding consideration	Yes	None
Group Purchasing Program G.S. 143-129(e)(3)	Informal and formal purchases	Competitive bidding process by a formally organized program offering discount prices to at least 2 public agencies	No	None



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
State Contract G.S. 143-129(e)(9)	Informal and formal purchases	Purchases from contracts established by State of NC if the contractor is willing to extend the same or more favorable prices, terms and conditions	No	None
Federal Contract G.S. 143-129(e)(9a)	Informal and formal purchases	Purchases from contracts established by a federal agency if the contractor is willing to extend the same or more favorable prices, terms and conditions	No	None
Used Goods G.S. 143-129(e)(10)	Informal and formal purchases	Purchase of used goods from a public or private entity; remanufactured, refabricated, or demo goods are not included under this exception	No	None
Piggyback G.S. 143-129(g)	Formal purchases	Purchases from contracts entered into by any federal, state, or local government in U.S. that have been competitively bid within the previous 12 months if the contractor is willing to extend the same or more favorable prices, terms and conditions	Yes	Board approval at a regular meeting after at least 10 days public notice (notice may be given by publication and electronic means; notice by electronic means only requires governing board approval)



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
Trade-In G.S. 143-129.7	Informal and formal purchases	Units may include trade-in of used items as part of the specifications for purchases, and may award one contract for both the sale of the trade-in item and the purchase of the new item	No	Items sold as a trade-in under G.S. 143-129.7 are not subject to property disposal requirements of Article 12 of Chapter 160A
Transportation Authority Purchases G.S. 143-129(h)	Informal and formal purchases and leases	Regional public transportation authorities (RPTA) and regional transportation authorities (RTA) may use RFP process for purchases	Yes	RFP process required by G.S. 143-129(h); governing board must approve use of RFP process at a regularly scheduled meeting before RFP is issued; governing board must certify that RFP process has been followed and approve contract at a regularly scheduled meeting
Nonprofit Work Centers for Blind and Severely Disabled G.S. 143-129.5	Informal and formal purchases	Purchases from a nonprofit work center for the blind and severely disabled as defined in G.S. 148-48	No	None
School Food Services G.S. 115C-264	Informal and formal purchases	Local school unit purchase of supplies and food for food services (nutrition programs) at school	No	None; federal requirements will apply to food services that are federally funded
School Books G.S. 115C-522(a)	Informal and formal purchases	Local school unit purchase of published books, manuscripts, pamphlets, and periodicals	No	None



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
Construction and Repair				
Change Order G.S. 143-129(e)(4)	Informal and formal construction/repair	Construction/repair work undertaken during the progress of a competitively bid project that is within the scope of the original project	No	None
Emergency G.S. 143-129(e)(2)	Informal and formal purchases and construction/repair	Present, immediate, and existing special emergency involving public health and safety of people or property	No	None; FEMA procurement requirements will apply in Presidentially declared disasters
Force Account Work G.S. 143-135	Construction/repair (within dollar limits)	Use of unit's own employees (on permanent payroll) and officers to perform construction work when either (1) total cost of the project is under \$500,000; or (2) total cost of the labor is under \$200,000	Yes	Purchases of materials used on the project still subject to competitive bidding requirements; unit must keep accurate records of entire cost of project
Guaranteed Energy Savings Contract (GESC) G.S. 143-129(e)(8)	Informal and formal construction/repair and related purchases	GESC for improvements to existing facilities to achieve energy savings sufficient to pay for the costs of the improvements over the term of the contract	Yes if financing of project subject to LGC approval	RFP process required under Article 3B of Chapter 143



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
Construction Management at-Risk (CM@R) G.S. 143-129(e)(11)	Informal and formal construction and repair	Construction or repair projects performed by a construction manager at-risk	No	CM@R hired under the Mini-Brooks Act QBS process (G.S. 143-64.31); contracts for construction project subject to requirements of G.S. 143-128.1
Solid Waste Management Facilities G.S. 143-129.2	Construction and operation of solid waste management facilities	Contract for the design, construction, operation, management and maintenance of highly complex and innovative solid waste management facilities and sludge management facilities; “ancillary facilities” (such as roads, water and sewer lines, and transfer stations) are excluded from the exemption	No	RFP process is optional; if not used, construction or repair work subject to competitive bidding



Exceptions to State Competitive Bidding Requirements For North Carolina Local Governments

Exception	Applies To:	Description	Board Approval Required?	Other Requirements
Information Technology Goods and Services				
State IT Contract G.S. 143-129(e)(7)	Informal and formal purchases of information technology goods and services	Purchases made through contracts established by the NC Department of Information Technology ("information technology" defined under G.S. 147-33.81(2))	No	None
IT Goods and Services G.S. 143-129.8	Informal and formal purchases of information technology goods and services	Contract for combination of information technology goods and services ("information technology defined under" G.S. 147-33.81(2))	No	Use of IT RFP process in lieu of traditional bidding is optional; if used, must follow requirements of G.S. 143-129.8