

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 746*

Short Title: Bid Rejection Standard Clarified.

(Public)

Sponsors: Senators Sherron; and Carpenter.

Referred to: State Personnel and State Government.

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW WITH REGARD TO THE REJECTION OF
COMPETITIVE BIDS FOR GOODS AND SERVICES.

The General Assembly of North Carolina enacts:

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

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

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

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

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