

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-207  
HOUSE BILL 840

AN ACT TO EXEMPT ONSLOW COUNTY FROM CERTAIN STATUTORY  
REQUIREMENTS IN THE RENOVATION OF THE ONSLOW SUPERIOR  
COURTHOUSE AND TO PROVIDE FOR FLEXIBILITY IN SCHOOL  
CONSTRUCTION AND REPAIR CONTRACTS FOR  
CHARLOTTE/MECKLENBURG SCHOOLS.

The General Assembly of North Carolina enacts:

Section 1.(a) Authority to Seek Bids Under Either Separate-Prime or Separate- and Single-Prime Systems. – Notwithstanding G.S. 143-128 or any other provisions of law, Onslow County may seek bids for the renovation of the Onslow County Superior Courthouse (i) under the separate-prime contract system or (ii) under both the separate-prime and the single-prime systems.

Section 1.(b) Standard for Award of Bids. – If the county seeks bids under only the separate-prime contract system, the county shall award the contract to the lowest responsible bidder, taking into consideration quality, performance, and time specified in the bids for performance of the contract.

If the county seeks bids under both the separate-prime and the single-prime systems, the county shall award the contract to either the lowest responsible bidder under the single-prime system or to the lowest responsible bidder under the separate-prime system, taking into consideration quality, performance, and time specified in the bids for performance of the contract. In determining the system under which the contract will be awarded to the lowest responsible bidder, the county may consider cost of construction oversight, time for completion, ability to control and coordinate the project, safety concerns regarding the removal of asbestos and lead paint, and other factors it deems appropriate.

Section 1.(c) Minimum Number of Bids Required. – The county shall not open any bid solicited under this act unless it receives at least three competitive bids from reputable and qualified contractors regularly engaged in their respective lines of endeavor. In calculating the number of bids required, either a full set of separate-prime bids or a single single-prime bid shall constitute a bid.

If the county seeks bids under both the separate-prime and the single-prime systems, the county is not required to receive either at least one full set of separate-prime bids or at least one bid from a general contractor under the separate-prime system. The bids received as separate-prime bids shall be submitted three hours prior to the deadline for the submission of single-prime bids. The amount of a bid submitted

by a subcontractor to the general contractor under the single-prime system shall not exceed the amount bid, if any, for the same work by that subcontractor to the county under the separate-prime system. Each single-prime bid shall identify the contractors selected to perform the three major subdivisions or branches of work and shall list the contractors' respective bid prices for those branches of work.

If after advertisement, the county has not received the minimum number of competitive bids as required by this subsection, the county shall again advertise for bids. If the required minimum number of bids is not received as a result of the second advertisement, the county may let the contract to the lowest responsible bidder that submitted a bid for the project, even though the county received only one bid.

Section 1.(d) Applicability of General Statutes. – All provisions of Article 8 of Chapter 143 of the General Statutes that are not inconsistent with this subsection shall apply to the county.

Section 2. Prequalified bidders; solicited bid list. – Notwithstanding G.S. 143-129, the Charlotte/Mecklenburg Board of Education ("Board") may prequalify a limited number of contractors for a school facility construction, rebuilding, or renovation contract ("contract" and "project") and solicit bids from some or all of those prequalified contractors. The Board must attempt to prequalify and solicit sealed bids from at least five contractors and may not award a contract pursuant to this section unless it receives at least three bids from the group of prequalified contractors. The Board may prequalify only single prime contractors pursuant to this section.

The Board shall award the contract or contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance, and the time specified in the bids for the performance of the project. Notwithstanding the first paragraph of this section, if the Board does not receive three or more proposals, it may again seek proposals for the project pursuant to this section and may award the contract to the lowest responsible bidder, even if only one proposal is received.

In prequalifying a contractor for purposes of this section, the Board may consider the contractor's relevant experience on the type of project to be bid, ability to meet the project schedule, financial strength, and the contractor's failure to perform satisfactorily on past projects or a current project. The Board's consideration of these factors shall be based upon objective information provided in the public record of the prequalification process. The Board must notify a disqualified bidder at least seven days prior to the opening of bids.

This section applies only to renovation, repair, and rebuilding projects.

Section 3. Construction management. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may contract with a construction manager to manage and assume liability for the completion of a project. The construction manager shall be selected in the same manner that architects and engineers are selected pursuant to Article 3D of Chapter 143 of the General Statutes. If the Board receives bids under the separate-prime system and contracts with a construction manager who will be liable for the completion of the project, the Board may combine the lowest responsible bids in each subdivision of work into a single contract to be administered by the construction manager.

Section 4. Design-build. – Notwithstanding G.S. 143-128, 143-129, and 143-132, the Board may use the design-build method of construction as follows:

- (1) The Board must seek to prequalify and solicit at least five design-build teams to bid on the project and must receive sealed proposals from at least three of those teams. The request for proposals must contain a design criteria package that defines the project scope, including preliminary design and performance specifications, in a manner sufficient to allow the bidders to respond. This package should be developed by an architect.
- (2) The Board shall interview at least three of the design-build teams that submit proposals. The Board shall award the contract to the best qualified team, taking into account the time of completion of the project and the cost of the project as the major factors.

Section 5. Other methods. – Nothing in this act limits the Board's use of any method of contracting already authorized by law under Articles 3D and 8 of Chapter 143 of the General Statutes.

Section 6. Project bundling. – The Board may award a single contract pursuant to this act covering multiple facilities and sites, except that all facilities for which such contract is awarded under this act for new construction must be in the same grade level (elementary school, middle school, or high school) unless the facilities are part of a single campus.

Section 7. Sections 2 through 6 apply to the Charlotte/Mecklenburg Board of Education only.

Section 8. This act is effective when it becomes law and expires July 1, 2002.

In the General Assembly read three times and ratified this the 23rd day of June, 1999.

s/ Dennis A. Wicker  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives