

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1051
HOUSE BILL 2263

AN ACT TO REQUIRE REPORTING TO THE DEPARTMENT OF ADMINISTRATION OF PARTICIPATION BY DISADVANTAGED BUSINESSES IN PUBLIC PROCUREMENT CONTRACTS AND TO REQUIRE THE DEPARTMENT TO COLLECT, COMPILE, AND REPORT THE DATA; AND TO CLARIFY THE PUBLIC BIDDING LAW FOR SINGLE-PRIME AND SEPARATE-PRIME COMPETITIVE BIDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-48 reads as rewritten:

"§ 143-48. **State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose; required annual reports.**

(a) It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small, minority, physically handicapped and women contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

(b) Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars (\$500,000) or more during a fiscal year from the General Assembly shall report to the Department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from minority-owned businesses, what percentage from female-owned businesses, and what percentage from disabled-owned businesses. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

(1) A business in one of the categories above means one:

- a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
- b. Of which the management and daily business operations are controlled by one or more persons in the category who own it; and
- (2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(c)(2)a through d; and
- (3) A disabled person means a 'handicapped person' as defined in G.S. 168A-3(4).

The Department of Administration shall collect and compile the data described in this section and report it annually to the General Assembly."

Sec. 2. The Department of Administration shall include in its report to the General Assembly in 1991 any data on participation by businesses described in Section 1 of this act that has been reported to it from governmental entities during previous years but that the Department has never reported to a standing committee of the General Assembly.

Sec. 3. The Department shall use any moneys available to it that are necessary to implement Sections 1 and 2.

Sec. 4. G.S. 143-132 reads as rewritten:

"§ 143-132. Minimum number of bids for public contracts.

(a) No contract to which G.S. 143-129 applies for construction or repairs shall be awarded by any board or governing body of the State, or any subdivision thereof, unless at least three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor; however, this section shall not apply to contracts which are negotiated as provided for in G.S. 143-129. Provided that if after advertisement for bids as required by G.S. 143-129, not as many as three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor, said board or governing body of the State agency or of a county, city, town or other subdivision of the State shall again advertise for bids; and if as a result of such second advertisement, not as many as three competitive bids from reputable and qualified contractors are received, such board or governing body may then let the contract to the lowest responsible bidder submitting a bid for such project, even though only one bid is received.

(b) For purposes of contracts bid in the alternative between the separate prime and single-prime contracts, pursuant to G.S. 143-128(b), a bid submitted by a single-prime contractor shall constitute a competitive bid in each of the four subdivisions or branches of work listed in ~~G.S. 143-128(a)~~. G.S. 143-128(a), and each full set of separate prime bids shall constitute a competitive single-prime bid in meeting the requirements of subsection (a) of this section.

(c) The State Building Commission shall develop guidelines no later than January 1, 1991 governing the opening of bids pursuant to this Article. These guidelines

shall be distributed to all public bodies subject to this Article. The guidelines shall not be subject to the provisions of Chapter 150B of the General Statutes."

Sec. 5. This act shall become effective July 1, 1990.

In the General Assembly read three times and ratified this the 27th day of July, 1990.