

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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HOUSE BILL 1169

Short Title: Amend Local Gov't. Purchasing Laws.

(Public)

Sponsors: Representative Saunders.

Referred to: Local Government I.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT AMENDING THE LOCAL GOVERNMENT PURCHASING LAWS  
UNDER THE LAWS RELATING TO PUBLIC CONTRACTS AND THE SALE  
OF PROPERTY FOR CITIES AND TOWNS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-129 reads as rewritten:

**"§ 143-129. Procedure for letting of public contracts; ~~purchases from federal government by State, counties, etc. contracts.~~**

(a) Bidding Required. – No construction or repair work requiring the estimated expenditure of public money in an amount equal to or more than one hundred thousand dollars (\$100,000) or purchase of apparatus, supplies, materials, or equipment requiring an estimated expenditure of public money in an amount equal to or more than ~~thirty thousand dollars (\$30,000), except in cases of group purchases made by hospitals through a competitive bidding purchasing program or in cases of special emergency involving the health and safety of the people or their property, shall~~ fifty thousand dollars (\$50,000) may be performed, nor ~~shall~~ may any contract be awarded therefor, by any board or governing body of the State, or of any institution of the State government, or of any ~~county, city, town, or other~~ political subdivision of the State, unless the provisions of this section are complied with. ~~For purposes of this Article, a competitive bidding group purchasing program is a formally organized program that offers purchasing services at discount prices to two or more hospital facilities. The limitation contained in this paragraph shall not apply to construction or repair work undertaken during the progress of a construction or repair project initially begun pursuant to this section. Further, the provisions of this section shall not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. Such purchases shall be subject to G.S. 143-131.~~

For purchases of apparatus, supplies, materials, or equipment, the governing body of any ~~municipality, county, or other~~ political subdivision of the State may, subject to any

1 restriction as to dollar amount, or other conditions that the governing body elects to  
2 impose, delegate to the manager or the chief purchasing ~~official~~official, or both, the  
3 authority to award contracts, reject bids, or readvertise to receive bids on behalf of the  
4 ~~unit, or waive bid bonds or deposits, or performance and payment bond~~  
5 ~~requirements.~~unit. Any person to whom authority is delegated under this subsection  
6 shall comply with the requirements of this Article that would otherwise apply to the  
7 governing body.

8 (b) ~~Advertisement of the letting of such contracts shall be as follows:~~Letting  
9 of Contracts. – Where the contract is to be let by a board or governing body of the State  
10 ~~government,~~government or of a State institution, ~~as distinguished from a board or~~  
11 ~~governing body of a subdivision of the State,~~ proposals shall be invited by  
12 advertisement ~~at least one week before the time specified for the opening of said~~  
13 ~~proposals~~ in a newspaper having general circulation in the State of North Carolina.  
14 Where the contract is to be let by a political subdivision of the State, proposals shall be  
15 invited by advertisement in a newspaper having general circulation in the political  
16 subdivision or by electronic means, or both. A decision to advertise solely by electronic  
17 means, whether for particular contracts or generally for all contracts that are subject to  
18 this Article, shall be approved by the governing board of the political subdivision of the  
19 State at a regular meeting of the board. Provided that the

20 The advertisements for bidders required by this section shall be publishedappear at  
21 ~~such a time that~~where at least seven full days shall lapse between the date of ~~publication~~  
22 ~~of~~on which the notice appears and the date of the opening of bids. The advertisement  
23 shall: (i) state the time and place where plans and specifications of proposed work or a  
24 complete description of the apparatus, supplies, materials, or equipment may be had; (ii)  
25 state the time and place for opening of the proposals; and (iii) reserve to the board or  
26 governing body the right to reject any or all proposals.

27 ~~Where the contract is to be let by a county, city, town or other subdivision of the~~  
28 ~~State, proposals shall be invited by advertisement at least one week before the time~~  
29 ~~specified for the opening of said proposals in a newspaper having general circulation in~~  
30 ~~such county, city, town or other subdivision.~~

31 ~~Such advertisement shall state the time and place where plans and specifications of~~  
32 ~~proposed work or a complete description of the apparatus, supplies, materials or~~  
33 ~~equipment may be had, and the time and place for opening of the proposals, and shall~~  
34 ~~reserve to said board or governing body the right to reject any or all such proposals.~~

35 ~~Proposals shall not~~may be rejected for any reason determined by the board or  
36 governing body to be in the best interest of the unit. However, the proposal shall not be  
37 rejected for the purpose of evading the provisions of this Article. No board or governing  
38 body of the State or political subdivision thereof shallmay assume responsibility for  
39 construction or purchase contracts, or guarantee the payments of labor or materials  
40 therefor except under provisions of this Article.

41 All proposals shall be opened in public and ~~shall be recorded on the minutes of the~~  
42 ~~board or governing body and the award shall be made~~the board or governing body shall

1 award the contract to the lowest responsible bidder or bidders, taking into consideration  
2 quality, performance and the time specified in the proposals for the performance of the  
3 contract. ~~It~~

4 In the event the lowest responsible bids are in excess of the funds available for the  
5 ~~project, project or purchase,~~ the responsible board or governing body is authorized to  
6 enter into negotiations with the lowest responsible bidder above mentioned, making  
7 reasonable changes in the plans and specifications as may be necessary to bring the  
8 contract price within the funds available, and may award a contract to such bidder upon  
9 recommendation of the Department of Administration in the case of the State  
10 government or of a State institution or agency, or upon recommendation of the  
11 responsible commission, council or board in the case of a subdivision of the State, if  
12 such bidder will agree to perform the work or provide the apparatus, supplies, materials,  
13 or equipment at the negotiated price within the funds available therefor. If a contract  
14 cannot be let under the above conditions, the board or governing body is authorized to  
15 readvertise, as herein provided, after having made such changes in plans and  
16 specifications as may be necessary to bring the cost of the project or purchase within the  
17 funds available therefor. The procedure above specified may be repeated if necessary in  
18 order to secure an acceptable contract within the funds available therefor.

19 No proposal ~~shall for construction or repair work~~ may be considered or accepted by  
20 said board or governing body unless at the time of its filing the same shall be  
21 accompanied by a deposit with said board or governing body of cash, or a cashier's  
22 check, or a certified check on some bank or trust company insured by the Federal  
23 Deposit Insurance Corporation in an amount equal to not less than five percent (5%) of  
24 the proposal. In lieu of making the cash deposit as above provided, such bidder may file  
25 a bid bond executed by a corporate surety licensed under the laws of North Carolina to  
26 execute such bonds, conditioned that the surety will upon demand forthwith make  
27 payment to the obligee upon said bond if the bidder fails to execute the contract in  
28 accordance with the bid bond. This deposit shall be retained if the successful bidder  
29 fails to execute the contract within 10 days after the award or fails to give satisfactory  
30 surety as required herein. ~~In the case of proposals for the purchase of apparatus,~~  
31 ~~supplies, materials, or equipment, the board or governing body may waive the~~  
32 ~~requirement for a bid bond or other deposit.~~

33 Bids shall be sealed and the opening of an envelope or package with knowledge that  
34 it contains a bid or the disclosure or exhibition of the contents of any bid by anyone  
35 without the permission of the bidder prior to the time set for opening in the invitation to  
36 bid shall constitute a Class 1 misdemeanor.

37 (c) Contract Execution and Security. – All contracts to which this section applies  
38 shall be executed in ~~writing, and the writing.~~ The board or governing body shall require  
39 the person to whom the award of a contract for construction or repair work is made to  
40 furnish bond as required by Article 3 of Chapter 44A; or require a deposit of money,  
41 certified check or government securities for the full amount of said contract to secure  
42 the faithful performance of the terms of said contract and the payment of all sums due

1 for labor and materials in a manner consistent with Article 3 of Chapter 44A; and ~~no~~  
2 ~~such~~the contract shall not be altered except by written agreement of the ~~contractor, the~~  
3 ~~sureties on his bond, contractor~~ and the board or governing body. ~~Such~~The surety bond  
4 or deposit required herein shall be deposited with the board or governing body for  
5 which the work is to be performed. When a deposit, other than a surety bond, is made  
6 with the board or governing body, ~~said~~the board or governing body assumes all the  
7 liabilities, obligations and duties of a surety as provided in Article 3 of Chapter 44A to  
8 the extent of said deposit. ~~In the case of contracts for the purchase of apparatus,~~  
9 ~~supplies, materials, or equipment, the board or governing body may waive the~~  
10 ~~requirement for a surety bond or other deposit.~~

11 The owning agency or the Department of Administration, in contracts involving a  
12 State agency, and the owning agency or the governing board, in contracts involving a  
13 political subdivision of the State, may reject the bonds of any surety company against  
14 which there is pending any unsettled claim or complaint made by a State agency or the  
15 owning agency or governing board of any political subdivision of the State arising out  
16 of any contract under which State funds, in contracts with the State, or funds of political  
17 subdivisions of the State, in contracts with such political subdivision, were expended,  
18 provided such claim or complaint has been pending more than 180 days.

19 (d) Use of Unemployment Relief Labor. – Nothing in this section shall operate so  
20 as to require any public agency to enter into a contract which will prevent the use of  
21 unemployment relief labor paid for in whole or in part by appropriations or funds  
22 furnished by the State or federal government.

23 (e) Exceptions. – The requirements of this Article do not apply to:

- 24 (1) ~~Any board or governing body of the State or any institution of the~~  
25 ~~State government or of any county, city, town, or other subdivision of~~  
26 ~~the State may enter into any contract with~~The purchase, lease, or other  
27 ~~acquisition of any apparatus, supplies, materials, or equipment from:~~  
28 (i) the United States of America or any agency ~~thereof, thereof;~~ or (ii)  
29 any other government unit or agency thereof within the United States,  
30 ~~for the purchase, lease, or other acquisition of any apparatus, supplies,~~  
31 ~~materials, or equipment without regard to the foregoing provisions of~~  
32 ~~this section or to the provisions of any other section of this~~  
33 ~~Article.~~States. The Secretary of Administration or the governing board  
34 ~~of any political subdivision of the State may designate any officer or~~  
35 ~~employee of the State or political subdivision to enter a bid or bids in~~  
36 ~~its behalf at any sale of apparatus, supplies, materials, equipment, or~~  
37 ~~other property owned by: (i) the United States of America or any~~  
38 ~~agency thereof; or (ii) any other governmental unit or agency thereof~~  
39 ~~within the United States. The Secretary of Administration or the~~  
40 ~~governing board of any political subdivision of the State may authorize~~  
41 ~~the officer or employee to make any partial or down payment or~~

1 payment in full that may be required by regulations of the  
2 governmental unit or agency disposing of the property.

3 (2) Cases of special emergency involving the health and safety of the  
4 people or their property.

5 (3) Purchases made through a competitive bidding group purchasing  
6 program, which is a formally organized program that offers  
7 competitively bid purchasing services at discount prices to two or  
8 more public agencies.

9 (4) Construction or repair work undertaken during the progress of a  
10 construction or repair project initially begun pursuant to this section.

11 (5) Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or  
12 natural gas. These purchases are subject to G.S. 143-131.

13 (6) Purchases of apparatus, supplies, materials, or equipment when: (i)  
14 performance or price competition for a product are not available; (ii) a  
15 needed product is available from only one source of supply; or (iii)  
16 standardization or compatibility is the overriding consideration.  
17 Notwithstanding any other provision of this section, the governing  
18 board of a political subdivision of the State shall approve the purchases  
19 listed in the preceding sentence prior to the award of the contract.

20 In the case of purchases by hospitals, in addition to the other  
21 exceptions in this subsection, the provisions of this Article shall not  
22 apply when: (i) a particular medical item or prosthetic appliance is  
23 needed; (ii) a particular product is ordered by an attending physician  
24 for his patients; (iii) additional products are needed to complete an  
25 ongoing job or task; (iv) products are purchased for "over-the-counter"  
26 resale; (v) a particular product is needed or desired for experimental,  
27 developmental, or research work; or (vi) equipment is already  
28 installed, connected, and in service under a lease or other agreement  
29 and the governing body of the hospital determines that the equipment  
30 should be purchased. The governing body of a hospital shall keep a  
31 record of all purchases made pursuant to this subsection. These records  
32 are subject to public inspection.

33 (7) Purchases of information technology through contracts established by  
34 the State Office of Information Technology Services as provided in  
35 G.S. 147-33.82(b) and G.S. 147-33.92(b).

36 (8) Guaranteed energy savings contracts, which are governed by Article  
37 3B of Chapter 143 of the General Statutes.

38 (9) Purchases from contracts established by the State or any agency of the  
39 State, if the contractor is willing to extend to a political subdivision of  
40 the State the same or more favorable prices, terms, or conditions as  
41 established in the State contract.

1           (10) Purchase of used apparatus, supplies, materials, or equipment. For  
2           purposes of this subdivision, remanufactured or refabricated apparatus,  
3           supplies, materials, or equipment are not included in the exception.

4           ~~The Secretary of Administration or the governing board of any county, city, town, or~~  
5 ~~other subdivision of the State may designate any officer or employee of the State,~~  
6 ~~county, city, town or subdivision to enter a bid or bids in its behalf at any sale of~~  
7 ~~apparatus, supplies, materials, equipment or other property owned by (i) the United~~  
8 ~~States of America or any agency thereof, or (ii) any other governmental unit or agency~~  
9 ~~thereof within the United States, and may authorize such officer or employee to make~~  
10 ~~any partial or down payment or payment in full that may be required by regulations of~~  
11 ~~the government or agency disposing of such property.~~

12           ~~(f) The provisions of this Article shall not apply to purchases of apparatus,~~  
13 ~~supplies, materials, or equipment when performance or price competition for a product~~  
14 ~~are not available; when a needed product is available from only one source of supply; or~~  
15 ~~when standardization or compatibility is the overriding consideration. Notwithstanding~~  
16 ~~any other provision of this section, the governing board of a municipality, county, or~~  
17 ~~other subdivision of the State shall approve the purchases listed in the preceding~~  
18 ~~sentence prior to the award of the contract. In the case of purchases by hospitals, in~~  
19 ~~addition to the other exceptions in this subsection, the provisions of this Article shall not~~  
20 ~~apply when a particular medical item or prosthetic appliance is needed; when a~~  
21 ~~particular product is ordered by an attending physician for his patients; when additional~~  
22 ~~products are needed to complete an ongoing job or task; when products are purchased~~  
23 ~~for "over the counter" resale; when a particular product is needed or desired for~~  
24 ~~experimental, developmental, or research work; or when equipment is already installed,~~  
25 ~~connected, and in service under a lease or other agreement and the governing body of~~  
26 ~~the hospital determines that the equipment should be purchased. The governing body of~~  
27 ~~a hospital, municipality, county or other political subdivision of the State shall keep a~~  
28 ~~record of all purchases made pursuant to this subsection. These records are subject to~~  
29 ~~public inspection.~~

30           (g) Waiver of Bidding for Previously Bid Contracts. – When the governing board  
31 of any ~~municipality, county, or other~~political subdivision of the State, or the manager or  
32 purchasing official delegated authority under subsection (a) of this section, determines  
33 that it is in the best interest of the unit, the requirements of this section may be waived  
34 for the purchase of apparatus, supplies, materials, or equipment from any person or  
35 entity that has, within the previous 12 months, after having completed a public, formal  
36 bid process substantially similar to that required by this Article, contracted to furnish the  
37 apparatus, supplies, materials, or equipment to:

- 38           (1) The United States of America or any federal agency;
- 39           (2) The State of North Carolina or any agency or political subdivision of  
40           the State; or
- 41           (3) Any other state or any agency or political subdivision of that state,

1 if the person or entity is willing to furnish the items at the same or more favorable  
2 prices, terms, and conditions as those provided under the contract with the other unit or  
3 agency. Notwithstanding any other provision of this section, any purchase made under  
4 this subsection shall be approved by the governing body of the purchasing ~~municipality,~~  
5 ~~county, or other~~ political subdivision of the State at a regularly scheduled meeting of the  
6 governing body no fewer than 10 days after publication of notice, in a newspaper of  
7 general circulation in the area served by the governing body, that a waiver of the bid  
8 procedure will be considered in order to contract with a qualified supplier pursuant to  
9 this section. Rules issued by the Secretary of Administration pursuant to G.S. 143-49(6)  
10 shall apply with respect to participation in State term contracts.

11 (h) Transportation Authority Purchases. – Notwithstanding any other provision  
12 of this section, any board or governing body of any regional public transportation  
13 authority, hereafter referred to as a "RPTA," created pursuant to Article 26 of Chapter  
14 160A of the General Statutes, or a regional transportation authority, hereafter referred to  
15 as a "RTA," created pursuant to Article 27 of Chapter 160A of the General Statutes,  
16 may approve the entering into of any contract for the purchase, lease, or other  
17 acquisition of any apparatus, supplies, materials, or equipment without competitive  
18 bidding and without meeting the requirements of subsection (b) of this section if the  
19 following procurement by competitive proposal (Request for Proposal) method is  
20 followed.

21 The competitive proposal method of procurement is normally conducted with more  
22 than one source submitting an offer or proposal. Either a fixed price or cost  
23 reimbursement type contract is awarded. This method of procurement is generally used  
24 when conditions are not appropriate for the use of sealed bids. If this procurement  
25 method is used, all of the following requirements apply:

- 26 (1) Requests for proposals shall be publicized. All evaluation factors shall  
27 be identified along with their relative importance.
- 28 (2) Proposals shall be solicited from an adequate number of qualified  
29 sources.
- 30 (3) RPTAs or RTAs shall have a method in place for conducting technical  
31 evaluations of proposals received and selecting awardees, with the  
32 goal of promoting fairness and competition without requiring strict  
33 adherence to specifications or price in determining the most  
34 advantageous proposal.
- 35 (4) The award may be based upon initial proposals without further  
36 discussion or negotiation or, in the discretion of the evaluators,  
37 discussions or negotiations may be conducted either with all offerors  
38 or with those offerors determined to be within the competitive range,  
39 and one or more revised proposals or a best and final offer may be  
40 requested of all remaining offerors. The details and deficiencies of an  
41 offeror's proposal may not be disclosed to other offerors during any  
42 period of negotiation or discussion.

1 (5) The award shall be made to the responsible firm whose proposal is  
2 most advantageous to the RPTA's or the RTA's program with price and  
3 other factors considered.

4 The contents of the proposals shall not be public records until 14 days before the  
5 award of the contract.

6 The board or governing body of the RPTA or the RTA shall, at the regularly  
7 scheduled meeting, by formal motion make findings of fact that the procurement by  
8 competitive proposal (Request for Proposals) method of procuring the particular  
9 apparatus, supplies, materials, or equipment is the most appropriate acquisition method  
10 prior to the issuance of the requests for proposals and shall by formal motion certify that  
11 the requirements of this subsection have been followed before approving the contract.

12 Nothing in this subsection subjects a procurement by competitive proposal under  
13 this subsection to G.S. 143-49, 143-52, or 143-53.

14 RPTAs and RTAs may adopt regulations to implement this subsection."

15 **SECTION 2.** G.S. 143-129.1 reads as rewritten:

16 "**§ 143-129.1. Withdrawal of bid.**

17 A public agency may allow a bidder submitting a bid pursuant to ~~North Carolina~~  
18 G.S. 143-129 for construction or repair work or for the purchase of apparatus, supplies,  
19 materials, or equipment to withdraw his bid from consideration after the bid opening  
20 without forfeiture of his bid security if the price bid was based upon a mistake, which  
21 constituted a substantial error, provided the bid was submitted in good faith, and the  
22 bidder submits credible evidence that the mistake was clerical in nature as opposed to a  
23 judgment error, and was actually due to an unintentional and substantial arithmetic error  
24 or an unintentional omission of a substantial quantity of work, labor, ~~material~~  
25 ~~or apparatus, supplies, materials, equipment, or services~~ made directly in the compilation  
26 of the bid, which unintentional arithmetic error or unintentional omission can be clearly  
27 shown by objective evidence drawn from inspection of the original work papers,  
28 documents or materials used in the preparation of the bid sought to be withdrawn. A  
29 request to withdraw a bid must be made in writing to the public agency which invited  
30 the proposals for the work prior to the award of the contract, but not later than 72 hours  
31 after the opening of ~~bids~~ bids, or for a longer period as may be specified in the  
32 instructions to bidders provided prior to the opening of bids.

33 If a request to withdraw a bid has been made in accordance with the provisions of  
34 this section, action on the remaining bids shall be considered, in accordance with North  
35 Carolina G.S. 143-129, as though said bid had not been received. Notwithstanding the  
36 foregoing, such bid shall be deemed to have been received for the purpose of complying  
37 with the requirements of G.S. 143-132. ~~Provided, however, in the event~~ If the work or  
38 purchase is relet for bids, under no circumstances shall may the bidder who has filed a  
39 request to withdraw be permitted to rebid the ~~work~~ work or purchase.

40 If a bidder files a request to withdraw his bid, the agency shall promptly hold a  
41 hearing thereon. The agency shall give to the withdrawing bidder reasonable notice of  
42 the time and place of any such hearing. The bidder, either in person or through counsel,



1 may appear at the hearing and present any additional facts and arguments in support of  
2 his request to withdraw his bid. The agency shall issue a written ruling allowing or  
3 denying the request to withdraw within five days after the hearing. If the agency finds  
4 that the price bid was based upon a mistake of the type described in the first paragraph  
5 of this section, then the agency shall issue a ruling permitting the bidder to withdraw  
6 without forfeiture of the bidder's security. If the agency finds that the price bid was  
7 based upon a mistake not of the type described in the first paragraph of this section, then  
8 the agency shall issue a ruling denying the request to withdraw and requiring the  
9 forfeiture of the bidder's security. A denial by the agency of the request to withdraw a  
10 bid shall have the same effect as if an award had been made to the bidder and a refusal  
11 by the bidder to accept had been made, or as if there had been a refusal to enter into the  
12 contract, and the bidder's bid deposit or bid bond shall be forfeited.

13 In the event said ruling denies the request to withdraw the bid, the bidder shall have  
14 the right, within 20 days after receipt of said ruling, to contest the matter by the filing of  
15 a civil action in any court of competent jurisdiction of the State of North Carolina. The  
16 procedure shall be the same as in all civil actions except all issues of law and fact and  
17 every other issue shall be tried de novo by the judge without jury; provided that the  
18 matter may be referred in the instances and in the manner provided for by North  
19 Carolina G.S. 1A-1, Rule 53, as amended. Notwithstanding the foregoing, if the public  
20 agency involved is the Department of Administration, it may follow its normal rules and  
21 regulations with respect to contested matters, as opposed to following the administrative  
22 procedures set forth herein. If it is finally determined that the bidder did not have the  
23 right to withdraw his bid pursuant to the provisions of this section, the bidder's security  
24 shall be forfeited. Every bid bond or bid deposit given by a bidder to a public agency  
25 pursuant to G.S. 143-129 shall be conclusively presumed to have been given in  
26 accordance with this section, whether or not it be so drawn as to conform to this section.  
27 This section shall be conclusively presumed to have been written into every bid bond  
28 given pursuant to G.S. 143-129.

29 Neither the agency nor any elected or appointed official, employee, representative or  
30 agent of such agency shall incur any liability or surcharge, in the absence of fraud or  
31 collusion, by permitting the withdrawal of a bid pursuant to the provisions of this  
32 section.

33 No withdrawal of the bid which would result in the award of the contract on another  
34 bid of the same bidder, his partner, or to a corporation or business venture owned by or  
35 in which he has an interest shall be permitted. No bidder who is permitted to withdraw  
36 a bid shall supply any material or labor to, or perform any subcontract or work  
37 agreement for, any person to whom a contract or subcontract is awarded in the  
38 performance of the contract for which the withdrawn bid was submitted, without the  
39 prior written approval of the agency. Whoever violates the provisions of the foregoing  
40 sentence shall be guilty of a Class 1 misdemeanor."

41 **SECTION 3.** Article 8 of Chapter 143 of the General Statutes is amended by  
42 adding a new section to read:

1 **"§ 143-129.8. Purchase of information technology goods and services.**

2 (a) In recognition of the complex and innovative nature of information  
3 technology goods and services and of the desirability of a single point of responsibility  
4 for contracts that include combinations of purchase of goods, design, installation,  
5 training, operation, maintenance, and related services, a political subdivision of the  
6 State may contract for information technology, as defined in G.S. 147-33.81(2), using  
7 the procedure set forth in this section, in addition to or instead of any other procedure  
8 available under North Carolina law.

9 (b) Contracts for information technology may be entered into under a request for  
10 proposals procedure that satisfies the following minimum requirements:

11 (1) Notice of the request for proposals shall be given in accordance with  
12 G.S. 143-129(a).

13 (2) Contracts shall be awarded to the person or entity that submits the best  
14 overall proposal as determined by the awarding authority. Factors to be  
15 considered in awarding contracts shall be identified in the request for  
16 proposals.

17 (c) The awarding authority may use procurement methods set forth in G.S. 143-  
18 135.9 in developing and evaluating requests for proposals under this section. The  
19 awarding authority may negotiate with any proposer in order to obtain a final contract  
20 that best meets the needs of the awarding authority. Negotiations allowed under this  
21 section shall not alter the contract beyond the scope of the original request for proposals  
22 in a manner that: (i) deprives the proposers or potential proposers of a fair opportunity  
23 to compete for the contract; and (ii) would have resulted in the award of the contract to  
24 a different person or entity if the alterations had been included in the request for  
25 proposals.

26 (d) Proposals submitted under this section shall not be subject to public  
27 inspection until a contract is awarded."

28 **SECTION 4.** G.S. 160A-266 is amended by adding a new subsection to  
29 read:

30 "(d) A city may discard any personal property that: (i) is determined to have no  
31 value; (ii) remains unsold or unclaimed after the city has exhausted efforts to sell the  
32 property using any applicable procedure under this Article; or (iii) poses a potential  
33 threat to the public health or safety."

34 **SECTION 5.** G.S. 160A-270 is amended by adding a new subsection to  
35 read:

36 "(c) The council may conduct auctions of real or personal property electronically  
37 by authorizing the establishment of an electronic auction procedure or by authorizing  
38 the use of existing private or public electronic auction services. Notice of an electronic  
39 auction of property shall identify, in addition to the information required in subsections  
40 (a) and (b) of this section, the electronic address where information about the property  
41 to be sold can be found and the electronic address where electronic bids may be posted.  
42 All requirements of subsections (a) and (b) of this section apply to electronic auctions."

1           **SECTION 6.** G.S. 160A-274(b) reads as rewritten:  
2        "(b) Any governmental unit may, upon such terms and conditions as it deems  
3 wise, with or without consideration, exchange with, lease to, lease from, sell to, or  
4 purchase ~~from, or enter into agreements regarding the joint use by~~from any other  
5 governmental unit of any interest in real or personal ~~property that it may own.~~property."  
6           **SECTION 7.** This act is effective when it becomes law.