

1 record of all bids submitted, which record shall be subject to public inspection at any
2 time after the bids are opened.

3 (c) The construction, maintenance, and repair of ferryboats and all other marine
4 floating equipment and the construction and repair of all types of docks by the
5 Department of Transportation shall be deemed highway construction, maintenance, or
6 repair for the purpose of G.S. 136-28.1 and Chapter 44A and Article 1 of Chapter 143,
7 "The Executive Budget Act." In cases of a written determination by the Secretary of
8 Transportation that the requirement for compatibility does not make public advertising
9 feasible for the repair of ferryboats, the public advertising as well as the soliciting of
10 informal bids may be waived.

11 (d) The construction, maintenance, and repair of the highway rest area buildings
12 and facilities, weight stations and the Department of Transportation's participation in the
13 construction of welcome center buildings shall be deemed highway construction,
14 maintenance, or repair for the purpose of G.S. 136-28.1 and G.S. 136-28.3 and Article 1
15 of Chapter 143 of the General Statutes, "The Executive Budget Act."

16 (e) The Department of Transportation may enter into contracts for construction,
17 maintenance, or repair without complying with the bidding requirements of this section
18 upon a determination of the Secretary of Transportation or the State Highway
19 Administrator that an emergency exists and that it is not feasible or not in the public
20 interest for the Department of Transportation to comply with the bidding requirements.

21 (f) Notwithstanding any other provision of law, the Department of
22 Transportation may solicit proposals under rules and regulations adopted by the
23 Department of Transportation for all contracts for professional engineering services and
24 other kinds of professional or specialized services necessary in connection with
25 highway construction, maintenance, or repair. In order to promote engineering and
26 design quality and ensure maximum competition by professional firms of all sizes, the
27 Department may establish fiscal guidelines and limitations necessary to promote
28 cost-efficiencies in overhead, salary, and expense reimbursement rates. The right to
29 reject any and all proposals is reserved to the Board of Transportation.

30 (g) The Department of Transportation may enter into contracts for research and
31 development with educational institutions and nonprofit organizations without soliciting
32 bids or proposals.

33 (h) The Department of Transportation may enter into contracts for applied
34 research and experimental work without soliciting bids or proposals; provided, however,
35 that if the research or work is for the purpose of testing equipment, materials, or
36 supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply.
37 The Department of Transportation is encouraged to solicit proposals when contracts are
38 entered into with private firms when it is in the public interest to do so.

39 (i) The Department of Transportation may negotiate and enter into contracts with
40 public utility companies for the lease, purchase, installation, and maintenance of
41 generators for electricity for its ferry repair facilities.

42 ~~(j) Notwithstanding any other provision of law, the Board of Transportation may~~
43 ~~award up to three contracts annually for construction of transportation projects on a~~
44 ~~design build basis. These contracts may be awarded after a determination by the~~

1 Department of Transportation that delivery of the projects must be expedited and that it
2 is not in the public interest to comply with normal design and construction contracting
3 procedures. Prior to the award of a design-build contract, the Secretary of
4 Transportation shall report to the Joint Legislative Transportation Oversight Committee
5 and to the Joint Legislative Commission on Governmental Operations on the nature and
6 scope of the project and the reasons an award on a design-build basis will best serve the
7 public interest."

8 **SECTION 2.** G.S. 136-28.11 reads as rewritten:

9 **"§ 136-28.11. Design-build construction of transportation projects.**

10 (a) Design-Build Contracts Authorized. – Notwithstanding any other provision
11 of law, the Board of Transportation may award ~~up to three~~ contracts annually for 10
12 projects in fiscal year 2002-2003, and 25 projects in fiscal years 2003-2004, 2004-2005,
13 2005-2006, 2006-2007, 2007-2008, and 2008-2009 for construction of transportation
14 projects on a design-build basis.

15 (b) Design-Build Contract Amounts; Basis of Award. – The Department may
16 award contracts for the construction of transportation projects on a design-build basis of
17 any amount. The Department shall endeavor to ensure design-build projects are awarded
18 on a basis to maximize participation, competition, and cost benefit. On any project for
19 which the Department proposes to use the design-build contracting method, the
20 Department shall attempt to structure and size the contracts for the project in order that
21 contracting firms and engineering firms based in North Carolina have a fair and equal
22 opportunity to compete for the contracts.

23 (c) Disadvantaged Business Participation Goals. – The provisions of
24 G.S. 136-28.4 and 49 C.F.R. Part 26 shall apply to the award of contracts under this
25 section.

26 (d) Findings Required. – These contracts may be awarded after a determination
27 by the Department of Transportation that delivery of the projects must be expedited and
28 that it is not in the public interest to comply with normal design and construction
29 contracting procedures.

30 (e) Reporting Requirements. – Prior to the award of a design-build contract, the
31 Secretary of Transportation shall report to the Joint Legislative Transportation
32 Oversight Committee and to the Joint Legislative Commission on Governmental
33 Operations on the nature and scope of the project and the reasons an award on a
34 design-build basis will best serve the public interest. No later than January 1 of each
35 year, the Department shall provide to the Joint Legislative Transportation Oversight
36 Committee a report that shall, as a minimum, include the number and size of all projects
37 awarded on a design-build basis, and a listing of the design-build teams short-listed for
38 each project."

39 **SECTION 3.** G.S. 136-28.7 reads as rewritten:

40 **"§ 136-28.7. Contract requirements relating to construction materials.**

41 (a) The Department of Transportation shall require that every contract for
42 construction or repair necessary to carry out the provisions of this Chapter shall contain
43 a provision requiring that all steel and ~~element~~ iron permanently incorporated into the
44 construction or repair project be produced in the United States.

1 (b) Subsection (a) shall not apply whenever the Department of Transportation
2 determines in writing that this provision required by subsection (a) cannot be complied
3 with because such products are not produced in the United States in sufficient quantities
4 to meet the requirements of such contracts or cannot be complied with because the cost
5 of such products produced in the United States unreasonably exceeds other such
6 products.

7 (c) The Department of Transportation shall apply this section consistent with the
8 requirements in 23 C.F.R. § 635.410(b)(4).

9 (d) The Department of Transportation shall not authorize, provide for, or make
10 payments to any person pursuant to any contract containing the provision required by
11 subsection (a) unless such person has fully complied with such provision."

12 **SECTION 4.** This act is effective when it becomes law.