

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-189
HOUSE BILL 1357

AN ACT TO PROVIDE FOR "BEST VALUE" INFORMATION TECHNOLOGY
PROCUREMENTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-135.9. 'Best Value' information technology procurements."

(a) For purposes of this section:

- (1) 'Information technology' includes electronic data processing and telecommunications goods and services, microelectronics, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design and/or redesign of business processes.
- (2) 'Best Value' procurement means the selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.
- (3) 'Solution-Based Solicitation' means a solicitation in which the requirements are stated in terms of how the product or service being purchased should accomplish the business objectives, rather than in terms of the technical design of the product or service.
- (4) 'Government-Vendor Partnership' means a mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of complex technology.

(b) The intent of 'Best Value' Information Technology procurement is to enable contractors to offer and the agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the

desired outcome of a procurement. Business process reengineering, system design, and technology implementation may be combined into a single solicitation.

(c) The acquisition of information technology by the State of North Carolina shall be conducted using the 'Best Value' procurement method. For acquisitions which the procuring agency and the Division of Purchase and Contracts deem to be highly complex or determine that the optimal solution to the business problem at hand is not known, the use of Solution-Based Solicitation and Government-Vendor Partnership is authorized and encouraged."

Section 2. The Division of Purchase and Contracts shall develop and implement no later than December 31, 1998, policies and procedures to ensure the use of "Best Value" Procurement and, as applicable, Solution-Based Procurement and Government-Vendor Partnership in the procurement of information technology by State agencies.

Section 3. The Division of Purchase and Contracts and the Department of Commerce, Information Technology Services, shall jointly develop and implement no later than December 31, 1998, policies, procedures, and/or programs to ensure that agency and Division of Purchase and Contracts personnel involved in the development of solicitations, development of specifications, evaluation of proposals, selection of vendors, administration of contracts, and management of information technology projects receive high-quality training in the principles of "Best Value" Procurement, Solution-Based Procurement, Government-Vendor Partnership, contract administration, and project management.

Section 4. The Division of Purchase and Contract and the Department of Commerce, Information Technology Services, shall report to the Technology Committee of the House of Representatives and the comparable committee in the Senate on the results of the implementation of G.S. 143-135.9 at its first meeting during the 1999 Session of the General Assembly.

Section 5. Section 1 of this act becomes effective December 1, 1998. The remaining sections of this act are effective when this act becomes law.

In the General Assembly read three times and ratified this the 12th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:00 a.m. this 21st day of October, 1998