



2019-2020 General Assembly

# HOUSE BILL 902: Purchase and Contracts Changes/Global Transpark/Prison Pilot, Part I: Purchase and Contracts Changes

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<b>Committee:</b>		<b>Date:</b>	October 16, 2020
<b>Introduced by:</b>		<b>Prepared by:</b>	Brad Krehely Staff Attorney
<b>Analysis of:</b>	Part I of S.L. 2020-90		

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**OVERVIEW:** *Part I of S.L. 2020-90 implements the expenditure benchmarks established under G.S. 143-53.1 as the monetary thresholds to review protests on contracts and waivers of competition and mandates that reports on emergency purchases by State departments, institutions, and agencies be submitted to the Division of Purchase and Contracts. It provides that the benchmark must not be greater than \$100,000 for State departments, institutions, and agencies, except the President of The University of North Carolina or a special responsibility constituent institution of The University of North Carolina and community colleges.*

*This part became effective July 2, 2020 and applies to contracts entered into on or after that date.*

**CURRENT LAW AND BILL ANALYSIS:** Part I of S.L. 2020-90 includes Sections 1.1-1.5 which are explained below.

## Section 1.1.

Under current law, the State Procurement Officer must provide a monthly report of all contract awards greater than \$25,000 approved through the Division of Purchase and Contract to the Cochairs of the Joint Legislative Committee on Governmental Operations.

Section 1.1 provides that the report must include all contract awards greater than the benchmark established under G.S. 143-53.1. This benchmark replaces the \$25,000 threshold.

## Section 1.2.

Generally, statewide term contracts are established through a competitive bid process. Currently, when a bidder chooses to protest a contract awarded by the Secretary of Administration, or by an agency (excluding universities), over \$25,000, the bidder must submit a written request, within 30 days of the award, to the State Purchasing Officer with the Division of Purchase and Contract. The request must contain specific reasons and any supporting documentation for the protest.

The competitive bid process may also be waived under certain circumstances. Under current law, any waiver of competition for the purchase, rental, or lease of goods and services is subject to prior review by the Secretary if the expenditure exceeds \$10,000.

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Section 1.2 implements the expenditure benchmarks established under G.S. 143-53.1 as the monetary thresholds to require (1) the Division of Purchase and Contract to review a protest on an award of a contract, and (2) the Secretary to review a waiver of competition.

## Section 1.3.

Under G.S. 143-53(a)(2), the Secretary of Administration may adopt rules prescribing the routine, including consistent contract language, for securing bids on items that do not exceed the bid value benchmark established under the provisions of G.S. 143-53.1. The bid value benchmark for securing offers for each State department, institution, and agency established under the provisions of G.S. 143-53 must be determined by the Director of the Division of Purchase and Contract following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the benchmark or raise the benchmark upon written request by the agency, after consideration of their overall capabilities.

Section 1.3 provides that the bid value benchmark authorized by G.S. 143-53(a)(2) must not be greater than \$100,000 for State departments, institutions, and agencies, except the President of The University of North Carolina or a special responsibility constituent institution of The University of North Carolina and community colleges.

## Section 1.4.

The Secretary has the power to procure necessary supplies, materials, equipment, printing or services for immediate delivery to any State agency, department, or institution in times of emergency. A report on the circumstances of the emergency must be made a matter of record immediately thereafter. If the expenditure exceeds \$10,000, the report must also be submitted to the Division.

Section 1.4 implements the expenditure benchmark established under G.S. 143-53.1 as the monetary threshold to require that a report be submitted to the Division after emergency purchases. This benchmark replaces the \$10,000 threshold.

## Section 1.5.

Section 1.5 removes obsolete language regarding furniture requirement contracts under G.S. 143-57.1.

**EFFECTIVE DATE:** This Part became effective July 2, 2020, and applies to contracts entered into on or after that date.

\*Nicholas Giddings, Staff Attorney for the Legislative Analysis Division, contributed substantially to the drafting of this summary.