

**Checklist for Purchasing and Contracting, in Accordance With Article  
8 of Chapter 143 of the General Statutes, Public Contracts, and Other  
Relevant Statutes**

The questions below are designed to be answered with YES/NO answers to indicate *possible* statutory violations and internal control weaknesses that should be investigated. Any “NO” answers should be brought to management's attention and may need to be disclosed in the notes to the financial statements. This checklist should be used only as a guide. It is not intended to be all inclusive. **It is not intended to substitute for a full reading and understanding of the relevant General Statute(s).** A listing of the NC General Statutes is available on the General Assembly web site, <http://www.ncga.state.nc.us/>. Persons referring to the statutes on this web site should be sure that changes from the latest session laws have been incorporated. If the web site indicates the statutes have not been updated, there should be a cross reference guide for those session laws affecting specified general statutes. (Note that this checklist is based upon the revisions in Session Law 2013-401. **The majority of sections affecting local governments are effective July 1, 2014.**)

**A unit’s local attorney should be consulted to determine if a NO answer to this checklist actually indicates a statutory violation.)**

Note also that this checklist does not address purchasing of contracting guidelines or prohibitions which may be attached to federal or State grant receipts. Local governmental units continue to have the option to adopt more stringent purchasing and contracting requirements, by local resolution. The auditor should examine the grant documents, the compliance supplements, and any local policies to determine if additional guidelines or prohibitions on purchasing and contracting may apply.

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-128	<b>Requirements applicable to contracts for construction, erection, alteration or repair of buildings.</b> These guidelines should be followed by the local government representatives responsible for determining specifications, awarding the contracts, and/or developing the contract specifications.				
143-128(a)	(1) Have contract specifications been outlined for heating, ventilation, air conditioning (HVAC) and accessories (either as separate systems or combined), refrigeration for cold storage with a cooling load of 15 tons or more of refrigeration, and all related work?				
	(2) Have contract specifications been outlined for plumbing and gas fittings, accessories, and all related work?				
	(3) Have contract specifications been outlined for electrical wiring, installations, and all related work?				
	(4) Have other contract specifications not already listed been outlined? These would include general work related to the erection, construction, alteration, or repair of a building.				
	A local unit may include additional specification for building construction and repair contracts. If the local unit has exercised this option, have those specifications been clearly outlined to the potential bidders?				
	If a contract will be let for bid on both the separate-prime system and dual bidding system, are the specifications written/drawn so that separate and independent bidding may be done on each subdivision of work?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-128(a1)	<p>The State, a county, municipality or other public bodies may award contracts to erect, construct, alter or repair buildings using any of the following methods below.</p> <p>Have the unit's contracts for building construction and repair followed the allowable methods?</p> <p>(1) Separate-prime bidding?</p> <p>(2) Single-prime bidding?</p> <p>(3) Dual bidding pursuant to subsection (d1) of this section?</p> <p>(4) Construction management at risk contracts, as allowed in G.S. 143-128.1?</p> <p>(5) Alternative contracting methods authorized in G.S. 143-135.26(9)?</p> <p>(6) Design-build contracts pursuant to G.S. 143-128.1A</p> <p>(7) Design-build bridging contracts pursuant to G.S. 143-128.1B</p> <p>(8) Public-private partnership construction contracts pursuant to G.S. 143-128.1C</p>				
143-128(b)	<p>If the local unit uses the separate-prime method, has it accepted bids for each of the subdivisions of work outlined in subsection (a), above? This may include additional specifications or plans required by the local unit.</p> <p>Are the successful bidders for each subdivision of work known as a responsible and reliable person/ firm/corporation and are they regularly engaged in their respective lines of work?</p> <p>Were the successful bidders the lowest responsible, responsive bidders, after considering quality, performance, time constraints, and minority participation goals (§143-128.2)? Consider if documentation of the governing board's decision process would be prudent.</p> <p>For contracts awarded under this subsection, do the subcontractors have access to dispute resolution made available by the local unit, pursuant to subsection (g)?</p>				
143-128(d)	<p>For the single-prime contracts have all bidders identified the contractors they have selected for the following subdivisions or branches of work on their bid?</p> <p>(1) Heating, Ventilating, and Air conditioning (HVAC)?</p> <p>(2) Plumbing?</p> <p>(3) Electrical? and</p> <p>(4) General?</p> <p>Is the successful bidder the lowest responsible, responsive bidder, considering quality, performance, time constraints and minority participation goals (§143-128.2)? Consider if documentation of the governing board's decision process would be prudent.</p> <p>For contracts awarded under this subsection, do the subcontractors have access to dispute resolution made available by the local unit, pursuant to subsection (g)?</p>				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-128(d1)	<b>Dual Bidding.</b> If a unit accepts bids for construction or repair work under both the single-prime and separate-prime methods, was the successful bidder the lowest responsible, responsive bidder under the single- prime method or the lowest responsible, responsive bidders under the separate-prime method? The unit should consider quality, performance, time constraints, and minority participation goals in determining the successful bidder(s).				
	Does the unit have a system in place to determine the successful bidder, considering cost of construction oversight, time for completion, and other factors as decided by the governing body? Consider if documentation of the governing board’s system would be prudent.				
	In dual bidding, were the separate-prime bids received, but not opened, <i>one hour before</i> the single- prime bids?				
	The amount of a bid by a subcontractor to the general contractor under the single-prime method <i>may not exceed</i> the amount the subcontractor submits as a bid to the unit for the same work. Have the subcontractors followed this guidance?				
	Have the provisions of subsection (b) been applied to separate-prime contracts awarded under dual bidding? Have the provisions of subsection (d) been applied to the single-prime contract awarded under dual bidding?				
143-128(e)	OPTIONAL: If specified in the bid documents, has the local unit awarding the contract appointed a project expeditor?				
	If required by the contract documents, has the project expeditor allowed contractors and subcontractors doing HVAC, plumbing, electrical and general work equal input on the initial project schedule?				
143-128(f1)	<b>Dispute resolution.</b> Has the local unit adopted the dispute resolution process adopted by the State Building Commission at G.S. 143-135.26(12)? OR				
	Has the local unit adopted an alternative dispute resolution process for issues related to the construction contract or the construction process?				
	Is the process open to all participants in the project, including the public entity itself, the architect, the construction manager, the contractors, the first-tier and lower-tier subcontractors?				
	The public entity may establish a reasonable dollar level for the amount in dispute. The amount may not be more than \$15,000. If one party to a dispute forces the second party into the dispute resolution process under this subsection, was that properly done considering the local and state guidelines?				
	The public entity may require the expense of resolution to be allocated among the parties. If the public entity is one of the parties in the dispute, has the public entity paid at least 1/3 of the cost of dispute resolution?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	If the public entity requires in its contracts that participation in mediation of a dispute is a precondition to beginning litigation, has that requirement been consistently enforced?				
	Subsection (f1) is still applicable to disputes arising from construction, repair, alteration, etc. of buildings covered by the exceptions listed below. If applicable, has this requirement been followed?				
143-128(g)	<b>Exceptions.</b> This section is not applicable to the purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work which must be performed at the construction site. Has this exception been properly applied?				
	This section is not applicable to the construction, alteration, repair, etc. of a building, when the cost of such work is \$300,000 or less. Has this exception been properly applied? (Note that the <i>Informal Bidding</i> requirements may still be applicable to such projects.)				
143-128.1	<b>Construction management at risk contract.</b> The following definitions should be applied in this section.				
143-128.1(a)	(1) "Construction management services" means services provided by a construction manager which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.				
	(2) "Construction management at risk services" means services provided by a person, corporation, or entity, that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, (iii) and who guarantees the cost of the project.				
	(3) "Construction manager at risk" means a person, corporation or entity providing construction management at risk services.				
	(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.				
143-128.1(b)	Has the construction manager at risk been selected in accordance with Article 3D, Chapter 143?				
	Has the design services for a project been performed by a licensed architect or engineer?				
	Has the public entity itself made a good faith effort to comply with GS 143-128.2, GS 143-128.4, and recruit and select small business entities when selecting a construction manager at risk?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-64.31(a)	Except for cases of special emergency involving the health and safety of the people or their property, did the unit announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price information at this stage, and thereafter to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm?				
143-64.31(a1)	Have resident firms providing architectural, engineering, surveying, construction management risk services, design-build services, or public-private partnerships been granted preference over nonresident firms in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for those services by the other state to its resident firms over firms resident to the state of NC?  Resident Firm- (for purposes of this section) a firm that has paid unemployment taxes or income taxes in NC and whose principal place of business is located in NC.				
	Did the unit grant preference to a resident firm providing architectural, engineering, surveying, construction management at risk, services, designed build services, or public-private partnership construction services compared to a nonresident firm, in the same manner, on the same basis, and to the extent that a preference is granted in awarding contracts for these services by the other state to its resident firms over firms resident in the State of North Carolina?				
143-64.31(b)	If the public entity has contracted with a construction manager at risk, design-builder, or private developer under a public-private partnership; then has the public entity reported the appropriate information, below, to the Secretary of Administration?				
	1) Did the unit submit a detailed explanation of why the particular construction manager at risk, design-builder, or private developer under a public-private partnership was selected?				
	(2) Were the terms of the contract with the construction manager at risk, design-builder, or private developer under a public-private partnership submitted?				
	(3) Was a list of all other firms considered but not selected as the construction manager at risk, design-builder, or private developer under a public-private partnership and the amount of their proposed fees for services submitted?				
	(4) Was a report on the form of bidding utilized by the construction manager at risk, design-builder, or private developer under a public-private partnership submitted?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(5) Is there a detailed explanation of the anticipated benefits on why the particular delivery method was used instead of using the Separate-prime bidding, Single-prime bidding, and Dual bidding pursuant to subsection (d1) of GS 143-128?				
143-64.31(d)	Was the report required under G.S. 143-64.31(b) filed to the Secretary of Administration no later than 12 months from the date the public body takes beneficial occupancy of the project?				
	If the answer to the above question above is NO, were the services of the architectural, engineering, construction management at risk, design-build, design-build bridging, or public-private partnership construction contracts services utilized before filing with the Secretary of Administration?				
143-128.1(b)	Was the design of the project done by a licensed engineer or architect?				
	Did the public entity contract directly with the licensed engineer or architect?				
143-128.1(c)	Did the construction manager at risk contract directly with the public entity?				
	Did the construction manager at risk advertise the project in accordance with G.S. 143-129?				
	Did the construction manager at risk prequalify and accept bids from first-tier subcontractors for construction work under this section?				
	Did the construction manager at risk use the prequalification process determined by the public entity in accordance to G.S. 143-135.8?				
	If the answer to the above YES, was there a jointly developed assessment tool and criteria for the specific project that includes prequalification scoring values and a minimum required score for qualification?				
	Did the unit require the construction manager at risk to submit its plan for compliance with GS 143-128.2 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors?				
	Had the construction manager at risk and first-tier subcontractors made a good faith effort to comply with GS 143-128.2, GS 143-128.4 and to recruit and select small business entities?				
	Did the construction manager at risk perform part of the work only when (i) the bidding produced no responsible, responsive bidder for that portion of the work; the lowest responsible, responsive builder will not execute a contract for the bid portion of the work; or the subcontractor defaults and a prequalified substitute cannot be found in time, and (ii) the local public entity approved of the construction manager at risk's performance of the work?				
	Were all bids opened publicly, with the construction manager at risk operating as a fiduciary for the local unit?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Did the construction manager at risk award the contract to the lowest responsible, responsive bidder, taking into consideration, quality, performance, time constraints, <a href="#">cost of construction oversight</a> , <a href="#">time for completion</a> , minority participation goals, and any other factors the local unit may require and advertised as part of the bid solicitation? Consider documenting the construction manager at risk's decision making process.				
	If the public entity requires the substitution of any first-tier subcontractor, has the public entity compensated the construction manager at risk for any additional costs?				
	If contracts are awarded pursuant to this section, did the public entity provide a dispute resolution procedure as provided in the <a href="#">GS 143-128(f1)</a> ?				
143-128.1(d)	Did the construction manager at risk provide a payment and performance bond in accordance with G.S. 44A, Article 3? Detailed <a href="#">further</a> below.				
143-128.1A	<b>DESIGN-BUILD CONTRACTS.</b>				
143-128.1A(a)	The definition for "design-builder and "governmental entity" can be found under <a href="#">GS 143-128.1B</a>				
143-128.1A(b)	Has the government entity established in writing the criteria used for determining the circumstances under which the design-build method is appropriate for a project? At a minimum the following criteria must be addressed.				
	(1) Can the governmental entity adequately and thoroughly define the project requirements prior to the issuance of the <a href="#">request for qualifications for a design-builder</a> ?				
	(2) Are time constraints placed on the delivery of the project?				
	(3) Is there an ability to ensure the quality of the project can be delivered?				
	(4) Does the governmental entity have the capability to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery?				
	(5) Has the governmental entity made a good faith effort to comply with <a href="#">GS 143-128.2</a> , <a href="#">GS 143-128.4</a> , and recruit and select small business entities?				
	Note: The governmental entity shall not preclude or limit a respondent so long as the respondent is properly licensed and qualified to perform the work defined by the Public notice issued under <a href="#">143-128.1A(c)</a> .				
	(6) Did the governmental entity included a cost benefit comparison of using the design-build delivery method for a given project verses the Separate-prime bidding Single-prime bidding, and Construction management at risk contracts?				
143-128.1A(c)	Did the governmental entity issue a public notice of the request for qualifications that includes general information on each of the following?				
	(1) Project site?				
	(2) Project scope?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(3) Anticipated project budget?				
	(4) Project schedule?				
	(5) Criteria to be considered for selection and the weighting of the qualifications criteria?				
	(6) Did the governmental entity include a notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority and women-owned business participation and small business participation?				
	(7) Is there any other information provided to potential design-builders in submitting qualifications for the project?				
	(8) Is there a statement providing that each design-builder shall submit in its response to the request for qualifications an explanation of its project team selection, which shall consist of either				
	a. A list of the licensed contractors, licensed subcontractors, and licensed design professionals whom the design-builder proposes to use for the project's design and constructions OR				
	b. An outline of the strategy the design-builder plans to use for open contractor and subcontractor selection based upon the provisions of Article 8 of Chapter 143 of the General Statutes.				
143-128.1A(d)	When evaluating the qualifications of the design-builders, did the governmental entity rank the three most highly qualified design-builders?				
	If after solicitation for design-builders, not as many as three qualified design-builders responded, then did the governmental entity solicit for design-builders a second time?				
	If after the second solicitation, not as many as three responses were received, then the governmental entity may then begin negotiations with the highest-ranked design-builder under GS 143-64.31.				
143-128.1A(e)	Has each design-builder certified to the governmental entity that each licensed design professional who is a member of the design-build team (including sub consultants) was selected based upon demonstrated competence and qualifications in the manner provided by GS 143-64.31?				
143-128.1A(f)	Did the design-builder provide a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 of Chapter 44A? Note: If the design-builder changes any key personnel as listed in 143-128.1A(c)(8)a. after the contract has been awarded, then the design-builder shall obtain written approval from the governmental entity.				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
<b>143-128.1B</b>	<b>DESIGN-BUILD BRIDGING CONTRACTS</b>				
143-128.1B(a)	Definitions for purposes of this section				
	(1) Design-build bridging – a design and construction delivery process whereby a governmental entity contracts for design criteria services under a separate agreement from the construction phase services of the design-builder.				
	(2) Design-builder – an appropriately licensed person, corporation, or entity that, under a single contract, offers to provide or provides design services and general contracting services where services within the scope of the practice of professional engineering or architecture are performed respectively by a licensed engineer or licensed architect and where services within the scope of the practice of general contracting are performed by a licensed general contractor.				
	(3) Design criteria – the requirements for a public project expressed in drawings and specifications sufficient to allow the design-builder to make a responsive bid proposal.				
	(4) Design professional – any professional licensed under Chapters 83A, 89A, or 89C of the general statutes.				
	(5) First-tier subcontractor – A subcontractor who contracts directly with the design-builder, excluding design professionals.				
	(6) Governmental entity – every officer, board, department, commission, or commissions charged with responsibility of preparation of specifications or awarding or entering into contracts for the erection, construction, alteration or repair of any buildings for the State or for any county, municipality, or other public body.				
143-128.1B(b)	Has the governmental entity establish in writing the criteria used for determining the circumstances under which engaging a design criteria design professional is appropriate for a project? Make sure such criteria addresses all of the following:				
	(1) Prior to the issuance of the request for proposals for a design-builder, can the governmental entity adequately and thoroughly define the project requirements?				
	(2) Are time constraints placed on the delivery of the project?				
	(3) Is there an ability to ensure the quality of the project can be delivered?				
	(4) Does the governmental agency have the capability to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(5) Has the governmental entity made a good-faith effort to comply with GS 143-128.2, GS 143-128.4, and to recruit and select small business entities? If the respondent is properly licensed and qualified to perform the work defined by the public notice, then the governmental unit shall not limit or preclude any respondent from submitting a response.				
	(6) Did the governmental entity include a cost and benefit comparison using the design-build delivery method for a given project verses the Separate-prime bidding, Single-prime bidding, and Construction management at risk contracts?				
143-128.1B(c)	Has the governmental entity selected or designated a staff design professional, or a design professional as its representative to act as the design criteria design professional (DCDP) for the procurement process and for the duration of the design and construction?				
	If the design employee is not a full time employee of the governmental entity, then has the entity selected the design professional on the basis of demonstrated competence and qualifications as provided by GS 143-64.31?				
	Has the DCDP developed design criteria in consultation with the governmental entity? Note: The DCDP shall not be eligible to submit a response to the RFP nor provide design input to a design-build response to the RFP.				
	Has the DCDP prepared a design criteria package equal to 35% of the completed design documentation for the entire construction project?				
	Does the design criteria package includes all of the following:				
	(1) Programmatic needs, interior space requirements, intended space utilization, and other capacity requirements?				
	(2) Material quality standards or performance criteria?				
	(3) Material quality standards or performance criteria?				
	(4) Special material requirements?				
	(5) Provisions for utilities?				
	(6) Parking requirements?				
	(7) The type, size, and location of adjacent structures?				
	(8) Preliminary or conceptual drawings and specifications sufficient to detail to allow the design-builder to make a proposal which is responsive to the RFP?				
	(9) Notice of any ordinances, rules or goals adopted by the governmental entity?				
143-128.1B(d)	Has the governmental entity issued a public notice of the RFP that includes general information on the following items at a minimum:				
	(1) Project site?				
	(2) Projects scope?				
	(3) Anticipated project budget?				
	(4) Project schedule?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(5) The criteria to be considered for selection and the weighting of the selection criteria?				
	(6) Notice of any rules, ordinances, or goals established by the governmental entity, including goals for minority- and women-owned business participation and small business entities?				
	(7) The 35% design criteria package prepared by the DCDP?				
	(8) Other information provided by the owner to the design-builder in submitting responses to the RFP for the project?				
	(9) A statement providing that each design-builder shall submit in the RFP response an explanation of its project team selection, which shall consist of a list of the licensed contractor and licensed design professionals whom the design-builder proposes to use for the project's design and construction?				
	(10) Has a statement providing that each design-builder submitted in its RFP a sealed envelope with all the following:				
	(a) The design-builder's price for providing the general condition of the contract?				
	(b) The design-builder's proposed fee for general construction services?				
	(c) The design-builder's fee for design services?				
143-128.1B(e)	Following evaluation of the qualifications of the design-builders, has the governmental entity ranked the design-builders who provided responses, grouping the top three without ordinal ranking?				
	If the governmental entity received less than 3 responses from qualified design builders, then has solicitation for design builders been made for the second time? If the second time around less than three responses are received then the governmental entity may make its selection.				
	Out of the top three design-builders, did the governmental entity pick the responsive, responsible bidder that provides the lowest in cumulative fees provided in accordance with subdivision (d)(10) of this section?				
	Did the entity also consider the quality, performance, and the time specified in the proposals for the performance contract?				
	Has each design-builder certified that each licensed design professional who is a member of the design-build team, including sub consultants was selected based upon demonstrated competence and qualifications provided under GS 143-64.31?				
143-128.1B(f)	Has the design-builder accepted bids based on the provisions of this Article from first-tier subcontractors for all construction work under this section?				
143-128.1B(g)	Has the design-builder provided a performance and payment bond to the governmental entity in accordance with the provisions of Article 3 Chapter 44A?				
	Has the design builder obtained written approval from the governmental entity prior to changing key personnel as listed under subdivision (d)(9) of this section?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-128.1C	<b>PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION CONTRACTS.</b>				
143-128.1C(a)	Definitions for this section:				
	(1) <b>Construction contract</b> – any contract entered into between a private developer and a contractor for the design, construction, reconstruction, alteration, or repair of any building or other work or improvement required for a private developer to satisfy its obligations under a development contract.				
	(2) <b>Contractor</b> – Any person who has entered into a construction contract with a private developer under this section.				
	(3) <b>Design-builder</b> – defined in GS 143-128.1B				
	(4) <b>Development contract</b> – any contract between a governmental entity and a private developer under this section and as part of the contract, the private developer is required to provide at least 50% of the financing for the total cost necessary to deliver the capital improvement project, whether through lease or ownership, for the government entity.				
	(5) <b>Governmental entity</b> – defined in GS 143-128.1B				
	(6) <b>Labor or materials</b> – includes all materials furnished or labor performed in the performance of the work required by a construction contract whether or not the labor or materials enter into or become a component part of the improvement and shall include gas, power, light, heat, oil, gasoline, telephone services, and rental of equipment of the reasonable value of the use of equipment directly utilized in the performance of the work required by a construction contract.				
	(7) <b>Private Developer</b> – Any person who has entered into a development contract with a governmental entity under this section.				
(8) <b>Public –private project</b> – a capital improvement project undertaken for the benefit of a governmental entity and a private developer pursuant to a development contract that includes construction of a public facility or other improvements, including paving, grading, utilities, infrastructure, reconstruction, or repair, and may include both public and private facilities.					

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(9) <b>State entity</b> – the state and every agency, authority, institution, board, commission, bureau, council, department, division, officer, or employee of the state. The term does not include a unit of local government as defined in GS 159-7				
	(10) <b>State-supported financing arrangement</b> – any installment financing arrangement, lease-purchase arrangement under which funds are to be paid in the future based upon the availability of an asset or funds for payment, or any similar arrangement in the nature of a financing, under which a state entity agrees to make payments to acquire or obtain a capital asset for the state entity or any other state entity for a term, including renewal options, or greater than one year. Any arrangement that results in the identification of a portion of a lease payment, installment payment, or similar scheduled payment thereunder by a state entity as “interest” for purposes of federal income taxation shall automatically be a state supported financing arrangement for purposes of this section.				
	(11) <b>Subcontractor</b> – any person who has contracted to furnish labor, services, or materials to, or who has performed labor or services for, a contractor or another subcontractor in connection with a development contract.				
143-128.1C(b)	If a governmental entity enters into a development contract with a private developer, was a written critical need for the capital improvement project prepared?				
	Did the determination occur during an open meeting of the public body?				
	Does the development contract between the governmental entity and the private developer specify the following?				
	(1) Property interest of the governmental entity and all other participants in the development of the project?				
	(2) Responsibilities of the governmental entity and all other participants in the development of the project?				
	(3) Responsibilities of the governmental entity and all other participants with respect to financing of the project?				
	(4) Responsibilities to put forth a good-faith effort to comply with GS 143-128.2 & .4 and to recruit and select small business entities?				
143-128.1C(c)	<b>Optional</b> - The development contract may provide that the private developer shall be responsible for any of the following:				
	(1) Construction of the entire public-private project.				
	(2) Reconstruction or repair of the public-private project or any part thereof subsequent to construction of the project.				
	(3) Additional construction to the public-private project.				
	(4) Renovation of the public-private project or any part thereof.				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(5) Purchase of apparatus, supplies, materials, or equipment for the public private project whether during or subsequent to the initial equipping of the project.				
	(6) A good-faith effort to comply with GS 143-128.2, .4 and to recruit and select small business entities.				
143-128.1C(d)	IF the development contract provides that the governmental entity and private developer shall use the same contractor or contractors in constructing a portion of or the entire public-private project THEN does the development contract include provisions deemed appropriate by the governmental entity to assure that the public facility or facilities included in or added to the public-private project are constructed, reconstructed, repaired, or renovated at the reasonable price and that the apparatus, supplies, materials, and equipment purchased for the public facility or facilities included in the public-private project are purchased at a reasonable price?				
143-128.1C(e)	Have the private developer and the contractors made a good-faith effort to comply with GS 143-28.2, and GS 143-28.4 and to recruit and select small business entities?				
143-128.1C(f)	If a private developer performs a portion of the construction or design work <u>only if both criteria apply:</u>				
	(1) Did the previously engaged contractor default and a qualified replacement could not be obtained after a good-faith effort has been made in a timely manner? And				
	(2) Did the governmental entity approve the private developer to perform the work?				
143-128.1C(g)	Bonding provisions apply to any development contract entered into under this section:				
	(1) Does the development contract include a payment bond in the amount of 100% of the total anticipated amount of the construction contracts entered into between the private developer and the contractors to design or construct the improvements?				
	(2) Are the payment bonds solely for the protection of the persons furnishing material or performing labor or services for which the private developer or its contractors or subcontractors are liable?				
	Are total anticipated amounts of the construction contracts stated in the development contract?				
	Did the private developer certify the contract as being a good faith projection of its total costs for constructing the improvements required by the development contract?				
	Has the payment bond been executed by one or more surety companies legally authorized to do business in the state of NC?				
	<b>OPTIONAL</b> – the development contract may provide for the requirement of a performance bond.				
143-128.1C(h)	Has the governmental entity determined its programming requirements for facilities and determined the form in which private developers may submit their qualifications?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Has the governmental entity advertised a notice for interested private developers to submit qualifications in a newspaper having general circulation within the county in which the governmental entity is located?				
	Prior to the submission of qualifications, did the governmental entity make available the programming requirements for facilities included in the public-private project?				
	Did the private developer submitting qualifications include the following:				
	(1) Evidence of financial stability				
	(2) Experience with similar projects.				
	(3) Explanation of project team selection by either <ul style="list-style-type: none"> <li>- listing the licensed contractors, licensed subcontractors, and licensed design professionals that the private developer proposed to use for the project's design and construction.</li> </ul> OR <ul style="list-style-type: none"> <li>- A statement outlining a strategy for open contractor and subcontractor selection based upon the provisions of this article.</li> </ul>				
	(4) Statement of availability to undertake the public-private project and projected time line for project completion.				
	(5) Any other information the governmental entity required.				
143-128.1C(i)	Has the governmental entity advertised the terms of the proposed contract in a newspaper having general circulation within the county in which the governmental entity is located at least 30 days prior to entering into the development contract?				
	Was the development contract considered in an open meeting of that public body following a public hearing on the proposed development contract?				
	Has the notice of the public hearing been published in the same notice as above?				
143-128.1C(j)	Has the governmental entity made available a summary of the development contract terms which include a statement of how to obtain a copy of the complete development contract?				
143-128.1C(k)	Note: A capital lease or operating lease is subject to approval by the local government commission under article 8 of chapter 159				
143-128.1C(l)	Note: A capital or operating lease involving a public school cannot contain provisions relating to student assignment.				
143-129(a)	<b><u>Procedures for Letting Public Contracts, Formal Bidding</u></b> For contracts for construction or repair work in the amount of \$500,000 or more, were formal bids requested and received?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	If a local government unit has locally established a lower threshold for formal bidding on contracts for the purchase of apparatus, supplies, materials, equipment, etc., has that lower level been observed?				
	PURCHASE CONTRACTS ONLY: A local governing board may delegate the authority to award contracts, reject bids, re-advertise for bids to the manager of the local unit or the purchasing agent of the local unit. If that has been done, have the officials followed all laws in this Article which would have applied to the governing board?				
143-129(b)	For local governments and political subdivisions of the State, was the advertisement for bids published in a local, general circulation newspaper and/or was the advertisement made by electronic means?				
	If the advertisement was <i>only</i> done electronically, was this authorized by the local governing board in a regular meeting? (The approval to advertise electronically can apply to individual contracts or to all contracts governed by this section.)				
	Were there seven (7) full days between the publication of the advertisement and the opening of the bids? (Note that this is the <i>minimum</i> . Longer advertisements are allowed and may be to the local unit's advantage.)				
	<b>Did the advertisement include:</b> The time and place where plans and specifications of the proposed work or a complete description of the apparatus, supplies, materials or equipment may be examined?				
	The time and place for the opening of the bids?				
	A provision reserving to the governing board the right to reject any or all bids?				
	If proposals are rejected, was the rejection in the best interest of the local unit? (Documentation of the reasons for rejection is not required by law. A local unit may find it prudent to document why proposals were rejected as not in the best interest of the local unit.)				
	No board or governing body of a political subdivision of the State may assume responsibility for construction or purchase contracts, or guarantee the payments of labor or materials therefore, except under the provisions of this Article. Has the local governmental unit only assumed payment responsibility for contracts governed by this Article?				
	Were all the bids/proposals opened in public?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Was the contract awarded to the lowest responsible, responsive bidder after considering quality, performance and specified time constraints for performance? (If the contract was awarded to other than the lowest bidder, consider if documentation of the governing board's decision process would be prudent.)				
	<b>If the lowest responsible bid exceeds available funds for the project or purchase...</b>				
	Has the local governing body entered into negotiation with the lowest responsible bidder in order to make reasonable changes in plans/specifications as may be needed in order to bring the contract price within the funds available <b>OR</b>				
	Did the local unit readvertise, requesting proposals, after having made changes to the plans and/or specifications to bring the project's expected cost within the funds available?				
	The governing board should not consider a construction or repair proposal that is not accompanied by a proper deposit. Was the proposal for construction or repair work accompanied by a deposit in cash, certified check, or cashier's check drawn on a bank or trust company insured by FDIC? (This is NA for purchase contracts.)				
	Was the amount of deposit at least equal to 5% of the proposal?				
	As an alternative, did the bidder provide a bid bond executed with a surety company licensed in North Carolina to execute such bonds?				
	Was the bond payable to the unit if the bidder fails to execute the contract in accordance with the bid bond?				
	If the successful bidder fails to execute the contract within 10 days of awarding the contract, or fails to provide adequate surety, did the local governing board retain the deposit?				
	Have the bids remained sealed until the advertised time of opening, unless the bidder has given specific permission to disclose the contents of his/her bid?				
143-129(c)	Are all contracts of the local unit, governed by this section, executed in writing?				
	For construction or repair contracts, has the successful bidder furnished a bond in accordance with Article 3, Chapter 44A? ( <i>Portions</i> below. A full reading and understanding of Article 3, Chapter 44A is recommended.)				
44A-26(a)	Has a performance and payment bond, as described in subdivisions (1) and (2) below, been put in place if the project cost exceeds \$300,000 and the contractor or construction manager at risk has a contract in excess of \$50,000? (Note that at its discretion, a governing board may require bonds conforming to G.S. 44A- 26(a)(1) and 44A- 26(a)(2) for other construction contracts.)				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
44A-26(a)(1)	This section is for the protection of the contracting body constructing the project. Has a performance bond been put in place for 100% of the construction contract amount, conditioned on the faithful performance of the contract in accordance with the plans, specifications, and conditions of the contract?				
44A-26(a)(2)	This section is for the protection of the persons providing labor or materials to a contractor, subcontractor, or construction manager at risk. Has a payment bond for 100% of the construction contract amount been put in place, conditioned upon the prompt payment of all labor and materials for which a contractor or subcontractor is liable?				
44A-30(a)	No action or agreement between the contracting body, the contractor, or the surety may reduce the time for giving notice under G.S. 44A-27(b) [120 days] or G.S. 44A-28(b) [1 year from the end of labor or delivery of materials, or 1 year from final settlement with the contractor]. Has the local unit abided by this provision?				
44A-31(a)	If a person entitled to bring action or a defendant in an action upon the payment bond requests a certified copy of the payment bond and/or the construction contract from the governing board, has the governing board produced the documents within 10 days of the request? Note that the contracting body may require a reasonable payment for the actual cost of furnishing a certified copy.				
143-129(c) continued	As an alternative to bonding, has the successful bidder deposited money, a certified check or government securities equal to the amount of the construction/repair contract with the board or governing body?				
	Has the contract been altered only pursuant to a written agreement between the contractor and the governing board?				
	If a claim by a political subdivision of the State has been pending against a surety company for 180 days, the governing board of a political subdivision may reject the surety company's bond. If this is applicable, has the local unit rejected the surety company's bond?				
143-129(d)	Contracts governed by this section may not prohibit the use of unemployment relief labor paid for in whole or part by State or federal funds. Have the contracts governed by this section complied with this requirement?				
143-129(e)	<b>Exceptions.</b> The requirements of Article 3, Chapter 143 do not apply in the following situations. Have the exceptions been properly followed?				
	(1) The Article requirements do not apply to the purchase, lease, or other acquisition of any apparatus, supplies, materials or equipment from the United States of America, any of its agencies, any governmental unit in the United States, or one of that unit's agencies. (Note that this subsection also addresses procedural issues for the acquisition of property under this section.)				
	(2) The Article requirements do not apply in cases of special emergency involving the health and safety of the people or their property.				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(3) The Article requirements do not apply to purchases made through a competitive bidding group purchasing program. The program must be formally organized, offering completely bid purchasing services at discount prices to two or more public agencies.				
	(4) The Article requirements do not apply to construction or repair work undertaken during the progress of a construction or repair project originally begun pursuant to this section. (Note that change orders are still subject to the <i>preaudit</i> requirements of G.S. 159-28. The staff of the LGC addressed this issue in <a href="#">Memorandum #924</a> , dated September 21, 2000.)				
	(5) The Article requirements do not apply to the purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. (Note that these purchases may be subject to G.S. 143-131, below.)				
	(6) The Article requirements do not apply to purchases of apparatus, supplies, materials or equipment when (i) performance or price competition is not available, (ii) needed product is available from only one supplier, or (iii) standardization or compatibility is the overriding consideration. The governing board must approve these purchases prior to the awarding of the contract.				
	Subsection (6) has <i>additional exceptions for purchases by hospitals</i> . The Article requirements do not apply to public hospital purchases if (i) a particular medical item or prosthetic appliance is needed, (ii) a particular product is ordered by an attending physician for his patients, (iii) additional products are needed to complete an ongoing job or task, (iv) products are purchased for “over-the-counter” resale, (v) a particular product is needed or desired for experimental, developmental, or research work, or (vi) equipment is already installed, connected, and in service under a lease or other agreement. In these cases, the hospital governing board should determine that the product should be purchased. The governing body of the hospital should keep records on the assets purchased under this subsection. This documentation should be considered public records.				
	(7) The Article requirements do not apply to purchases of information technology through contacts established by the State Office of Information Technology Services.				
	(8) The Article requirements do not apply to guaranteed energy savings contracts, which are governed by Article 3B, Chapter 143.				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(9) The Article requirements do not apply to purchases from contracts established by the State, in which the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, or conditions as established by the State contract. It also doesn't apply to purchases from the United States or any Federal agency if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, or conditions as established by the Federal contract.				
	(10) The Article requirements do not apply to purchases of used apparatus, supplies, materials, or equipment. Remanufactured, refabricated, or demo models are not considered "used" in this subsection.				
	(11) The Article requirements do not apply to contracts by a public entity with a construction manager at risk executed pursuant to G.S. 143-128.1				
	(12) <del>repealed effective July 1, 2015 - The Article requirements do not apply to Build-to-suit capital leases with a private developers under GS 115C-532</del>				
143-129(g)	<p>The governing body of a political subdivision may waive the bidding requirements of subsection (a) for the purchase of apparatus, supplies, material, or equipment for a person or entity which has completed in the previous 12 months a public formal bid process substantially similar to that required by this Article, and has contracted to furnish apparatus, supplies, materials or equipment to the United States of America, a federal agency, the State of North Carolina, a State agency, a political subdivision of the State, or any other state, other state agency or political subdivision of that state. If the governing board chooses to waive the bidding requirements, has the vendor sold the asset to the local unit at the same or more favorable terms than was provided to the other unit(s)?</p> <p>Have purchases made under this subsection been approved by the governing board at a regular meeting, no fewer than 10 days after the newspaper publication of the governing board's intent to waive the bidding contract in order to contract with a qualified supplier under this subsection?</p>				
143-129(h)	<p><b>Regional Public Transportation Authorities (RPTAs) and Regional Transportation Authorities (RTAs)</b>  RPTAs and RTAs are allowed to use competitive proposals [also known as Requests for Proposals, (RFPs)] in lieu of the bidding requirements of G.S. 143-129(b) for the acquisition, purchase, or lease of apparatus, supplies, materials or equipment. If a RPTA or RTA uses this procurement method, have all of the following criteria been properly followed?</p> <p>During a regular board meeting, prior to the issuance of the RFPs, has the governing board declared that the RFP method of procurement is the most appropriate method for the purchase of apparatus, supplies, materials, and equipment?</p>				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(1) Have the requests for proposals been publicized, including all the evaluation factors and their relative importance?				
	(2) Have proposals been solicited from an adequate number of qualified sources?				
	(3) Do the RPTAs and RTAs have methods in place to make technical evaluations of the proposals and determine the successful bidder?				
	Does the system in (3) above avoid strict adherence to price, and does the system consider all factors to determine which proposal is most advantageous to the RPTA or RTA?				
	(4) Once the initial proposals are received, the RPTA or RTA may enter into additional negotiations or discussions with the respondents. If the unit exercises this <i>option</i> , have the following requirements been observed?				
	The negotiations may be with all offerors or with offerors determined to be within a competitive range.				
	One or more revised proposals may be requested from the bidder(s).				
	A best and final offer proposal may be requested of the remaining offerors.				
	The details and deficiencies of an offeror's proposal <i>were not disclosed</i> to other offerors during any period of negotiation or discussion.				
	(5) The award of the purchase contract was made to the firm offering the proposal most advantageous to the RPTA or RTA. (Consider if additional documentation of the governing board's selection process would be prudent.)				
	Were the contents of the proposals treated as public records only 14 days prior to the award of the contract?				
	At a regular meeting, prior to the awarding of the contract, has the governing board certified that all requirements of this subsection been followed?				
143-129.1	<p><b>Withdrawal of a bid</b></p> <p><b>This checklist addresses the basic implications of a withdrawn bid. <u>If this is an issue, a full reading and understanding of G.S. 143-129.1 is essential to ensure that the local unit follows all procedures in either allowing or disallowing the withdrawal of a bid without the loss of the surety deposit or bond by the bidder.</u></b></p> <p>A bidder may withdraw a bid for construction or repair of a building or the acquisition of equipment, supplies or materials, after the opening of the bid, without forfeiture of the security deposit/bond, if the price on the bid was the result of a mistake of a substantial amount. Has this statute been observed if a bidder wishes to withdraw a bid after opening and without forfeiture of the security deposit?</p> <p>Has the bidder produced evidence that the bid was due to a clerical error, of a substantial amount?</p>				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Has the bidder produced evidence that the bid price omitted a substantial amount of construction/repair work or omitted a substantial amount of supplies, material, apparatus, or equipment?				
	Has the bidder produced evidence such as original working documents that indicate that the price bid was an unintentional error?				
	Was the request to withdraw the bid made to the public entity in writing within 72 hours of the bid opening? (NOTE that a longer period for bid withdrawal may apply if such a period was specified in the instructions to bidders and was provided prior to the opening of the bids.)				
	If a request to withdraw a bid was made, were the remaining bids considered for award of the contract?				
	If the contract is relet, has the bidder who withdrew a bid <i>been barred from rebidding</i> on the work or purchase?				
	No withdrawal of a bid is allowed if it results in the award of the contract to another bid of the same bidder, his partner, or to a corporation or business venture owned by or in which the bidder has an interest. Has this prohibition been observed?				
	No bidder who has withdrawn a bid may supply materials or labor to, or perform any subcontract work for, any person who is the successful bidder on the project from which the first bidder withdrew. Has this prohibition been observed?				
	<b>The following sections are limited to specific situations, as indicated by the titles. <u>If these issues are applicable, the checklist user should read and understand the appropriate section of the General Statutes.</u></b>				
143-129.2	<b>Construction, design and operation of solid waste management facilities.</b> Local units are given additional discretion in awarding contracts related to solid waste management facilities. The intent is that the local unit select the bidder with the best overall proposal for the local government. The contract may not exceed 40 years. Has the local government followed these general guidelines?				
143-129.4	<b>Guaranteed energy savings contracts.</b> Contracting for guaranteed energy savings contracts are governed by Article 3B, Part 2, of Chapter 143. The bids may be received through requests for proposals from qualified entities. There must be at least two bids received before the bids may be opened. The bids are to be evaluated by a licensed architect or engineer on behalf of the local unit. The governing board of the local unit may select the provider that best meets the factors of price, construction cost, quality, amount of energy savings, reputation of the bidder, conformity with published specifications, time constraints, and any other factors the local unit feels are important. Has the local unit complied with these guidelines?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-129.5	<b>Purchases from nonprofit work centers for the blind and severely disabled.</b> Local units are allowed to purchase goods and obtain services directly from such nonprofit work centers, as defined in G.S. 143- 48. Has the local unit followed this guideline?				
143-129.7	<b>Purchase with trade-in of apparatus, supplies, materials, and equipment.</b> If a local unit has included the option for the bidder to purchase personal property owned by the local unit in its specifications for the bid on the acquisition of apparatus, supplies, materials and equipment, has that option been considered in the awarding of the contract for purchase of apparatus, supplies, materials, and equipment?				
143-129.8	<b>Purchase of information technology goods and services.</b> Subsection (a) recognizes the “ complex and innovative nature of information technology goods and services...” and allows alternative methods of contracting and purchasing, in order to best meet the local units’ needs. The following options may be used in addition to other State statutes or instead of other State statutes.				
143-129.8(b)	Contracts for information technology goods and services may be awarded on the results of requests for proposals if the local unit adheres to the following guidelines.				
	(1) Was the notice of the request for proposals made in accordance with G.S. 143-129(a)?				
	(2) Was the contract awarded to the bidder with the best overall proposal?				
	Were the factors to be used in determining the award of the contract identified in the request for proposals? Consider if it would be prudent to document the local unit’s decision process.				
143-129.8(c)	If the awarding unit chooses to establish selection criteria under G.S. 143-135.9, for the “Best Value,” has the unit complied with all applicable sections of that statute?				
	The awarding unit is permitted to negotiate with a bidder to reach a final contract. If the awarding agency has done this, does the final contract meet the criteria below?				
	Negotiated changes may not change the original request for proposals to the point that the proposer or potential proposers are denied a fair opportunity to compete for the contract. Do the negotiated changes conform with this requirement?				
	Negotiated changes may not be to such an extent that had they been included in the original request for proposal, the awarding of the contract would have been to a different bidder. Do the negotiated changes conform to this requirement?				
143-129.8(d)	The proposals submitted under this section should not be available for public inspection until a contract has been awarded. Has the awarding unit complied with this restriction?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-131(a)	<b>Informal Bidding</b>				
	For contracts for construction or repair work in the amount of \$30,000 or more, but less than \$500,000, were informal bids requested and received?				
	For contracts for the purchase of apparatus, supplies, materials, equipment, etc. in the amount of \$30,000 or more, but less than \$90,000, were informal bids requested and received? Note that <i>local school units</i> are governed by Chapter 143, Article 3 of the General Statutes.				
	Was the award of the contract made <i>after</i> the collection of the informal bids?				
	Was the contract awarded to the lowest responsible, responsive bidder after considering quality, performance and specified time constraints for performance? (If the contract was awarded to other than the lowest bidder, consider if documentation of the governing board's decision process would be prudent.)				
	Has a record been kept of all the informal bids? (Records may be evidenced by faxes, notes, etc. documenting that bids were solicited and received.)				
	Have the responsible unit officials kept a record of all bids submitted? (Note that the record of the bids is not available for inspection, based on a public request, until <i>after</i> the awarding of the contract. The local government unit may disclose the bids, at its discretion, once all the bids have been received. I.E., access to the information should be guarded so that a last-minute bidder does not have an unfair advantage.)				
143-131(b)	Has the local government unit made efforts to solicit minority participation in contracts for the erection, construction, alteration or repair of any building? (Note that if the contract between the unit and the minority business/contractor is part of a construction project requiring formal bidding, the contract with the minority entity may be subject to the formal bid requirements. No judicial rulings on this question are currently available.) See below for more details on minority participation.				
	Does the unit have documentation showing which contractors were solicited for bids?				
	Does the unit have documentation as evidence of recruiting efforts for minority participation in these construction/repair contracts?				
	Has the appropriate information been submitted to the NC Dept. of Administration, Office of Historically Underutilized Businesses at the completion of the project?				
	Does that documentation include: the type of project involved, the total dollar value of the project, the dollar value of minority business participation, and documentation of efforts to recruit minority participation in the project?				

<b>G.S. Reference</b>	<b>Attribute</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>WP/Initials</b>
143-132	<b>Minimum number of bids for public contracts.</b>				
143-132(a)	For construction and repair contracts subject to G.S.143-129 [Formal bidding], were at least three (3) competitive bids received from reputable and qualified contractors, regularly employed in their respective lines of work?				
	The three bid requirement is not applicable to contracts negotiated as allowed in G.S. 143-129. May the three bid requirement be avoided because this is a negotiated contract complying with the exceptions above?				
	If three bids were not received from reputable and qualified contractors regularly employed in their line of work, did the local unit readvertise the requests for bids?				
	If the second advertisement does not result in bids from three reputable and qualified contractors, did the governing board award the contract to the lowest responsible bidder? (The contract may be awarded at this point even if there is only one responsible and responsive bidder.)				
143-132(b)	When the local unit contracts for bids in the alternative between single-prime and separate-prime [Dual bidding], has the unit complied with the following guidelines?				
	Has each single-prime bid been counted as a competitive bid in the work areas of HVAC, plumbing, electrical and general construction work?				
	Has each full set of separate-prime bids been counted as one competitive single-prime bid, for the purposes of meeting the three competitive bid requirements?				
	If there were at least three single-prime bids and there was not a full set of separate-prime bids, did the separate-prime bids remain unopened?				
143-132(c)	Has the local unit followed the guidelines set by the State Building Commission governing the opening of bids?				
143-133	Contracts may not be divided in order to avoid the requirements of Article 8, Chapter 143. Has this requirement been followed?				
	Is there a local resolution for bidding, contracting and purchasing that requires more of the local unit than the State laws? Has the unit followed its own local resolution(s)?				
143-128.2	<b>Minority business participation goals.</b>				
143-128.2(a)	If a local unit has a building project with an estimated cost of \$100,000 or more, and the local unit receives State funds for the building project, does the unit have the established goal that minority businesses will participate in 10% of the total value of the work?				
	If a private entity is receiving State funds for a building project estimated at \$100,000 or more, which the private entity will lease or sell to a local government unit, does the private entity have the established goal that minority businesses will participate in 10% of the total value of the work?				
	If a local government unit has a different verifiable goal, was that goal adopted prior to 12/1/2001?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Did the local government have, and continue to have, a sufficiently strong basis in evidence to justify the use of a different minority participation goal? Consider if documentation of the evidence would be prudent.				
	FOR PROJECTS FUNDED WITH LOCAL MONEY. Has a city, county, or other local unit, after notice and a public hearing, adopted an appropriate, verifiable percentage goal for participation by minority businesses as compared to the total value of building project work? (Note that previously adopted percentage goals may still be used if they were adopted prior to December 1, 2001 and there is still evidence available to justify the use of the goal.)				
	Has each entity required to have a verifiable participation percentage made good faith attempts to recruit minority business participation as described in this section, or under G.S. 143-131 [Informal bidding]?				
143-128.2(b)	Prior to soliciting bids, did a public entity determine what good faith efforts that it would take in order to make it possible for minority businesses to submit successful bids on a building project? See subsection (e) below.				
	Have contractors and first-tier subcontractors in construction management at risk projects made good faith efforts pursuant to subsection (f) below?				
143-128.2(c)	For all construction/repair projects bid under the methods of 143-128(a1), have the bidders, including first-tier subcontractors for construction management at risk projects, listed on their bids the minority businesses that the bidder will use on the project?				
	For all construction/repair projects bid under the methods of G.S. 143-128(a1), have the bidders, including first-tier subcontractors for construction management at risk projects, submitted an affidavit detailing the good faith efforts made pursuant to subsection (f)?				
	Do the bids include the total dollar amount of work to be done by minority businesses?				
	If a contractor, including a first-tier subcontractor on a construction manager at risk project, will perform all of the contracted work using its own workforce, has that contractor filed an affidavit to that fact? (Note that if such affidavit is appropriate, it substitutes for the earlier affidavit.)				
	Has the apparent lowest responsible, responsive bidder also filed the following documents, within the time specified in the bid documents?				
	(1)(a) Has the apparent successful bidder filed an affidavit detailing the portion of work to be executed by minority businesses, expressed as a percentage of the total contract price?				
	Is the percentage equal or greater than the goal percentage?				
	OR, (1)(b) Has the apparent successful bidder filed documentation of the bidder's good faith efforts to meet the goal?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	Does the documentation include evidence of implementation of good faith efforts, including advertisements, solicitations, and other evidence demonstrating efforts to recruit minority business participation?				
	(2) Has the apparent successful bidder filed within 30 days of the contract award, a listing detailing all subcontractors identified for this particular project?				
	Failure to file the required affidavit or documentation of good faith efforts is grounds for rejection of the bid. Has the unit rejected the bid if the required documents were not filed?				
143-128.2(d)	No subcontractor identified and listed because of the above section may be replaced except for the following causes. Has the local unit correctly observed these limits?				
	(1) The subcontractor originally listed on the bid may be replaced if the contractor or construction manager at risk determines the subcontractor's bid was non-responsible or nonresponsive.				
	The subcontractor originally listed on the bid may be replaced if the subcontractor refuses to enter into a contract for the complete performance of the bid work.				
	(2) The subcontractor originally listed may be substituted with the approval of the local unit, if good cause is evident.				
	Have the good faith efforts detailed in G.S. 143-131(b) been applied to the selection of a substitute subcontractor when informal bidding applies?				
	Prior to the substitution of a subcontractor, did the contractor inform the governing body of the contractor's good faith efforts required under informal bidding?				
143-128.2(e)	Before awarding a contract, has the public entity done the following?				
	(1) Has the public entity developed and implemented a minority business participation plan to reach out to minority businesses that can perform public building projects?				
	Does that outreach/recruitment plan encourage interaction between minority and nonminority businesses?				
	(2) Has the public entity attended the scheduled prebid conference(s)?				
	(3) Minority business may request that the public entity notify them of public construction/repair projects put out for bid. Minority businesses may also notify the Office of Historically Underutilized Businesses of their interest in bidding on this type of work. At least 10 days before the scheduled day of bid opening, did the public entity notify these minority businesses of the construction/repair project let for bid?				
	Did the notification include the following?				
	(a) A description of the work for which the bid is being solicited?				
	(b) The date, time, and location where bids are to be submitted?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(c) The name of the individual within the public entity who will be available to answer questions about the project?				
	(d) Where bid documents may be reviewed?				
	(e) Any special requirements that may exist?				
	(4) Did the public entity use other media, as appropriate, to inform potential minority businesses of the bid being sought?				
143-128.2(f)	Did the public entity require bidders to undertake good faith efforts from the list of 10 items below?				
	If the public entity has required contractors to perform additional good faith efforts, have the contractors complied with that request?				
	(Note that a point system to be developed by the Secretary of Administration is required in the law. At this time, the point system has not been developed. At publication time for this checklist, contractors are encouraged to show good faith efforts to promote minority business participation in at least 5 of the following 10 efforts.)				
	(1) Did the contractor contact minority businesses that reasonably could have been expected to submit a quote on specified project work?				
	Did the contractor contact minority businesses known to the contractor, or on State or local gov't maintained lists of minority businesses?				
	Was the contact made at least 10 days before the scheduled bid opening, and did the contact include the nature and scope of work to be performed?				
	(2) Did the contractor make construction plans, specifications and requirements available to, or provide to, prospective minority businesses at least 10 days before the bids were due?				
	(3) Did the contractor break down or combine elements of work into economically feasible units to facilitate minority participation?				
	(4) Did the contractor work with minority trade associations, community groups, contractor organizations identified by the Office of Historically Underutilized Businesses, or groups specified in the bid documents to recruit minority businesses?				
	(5) Did the contractor attend prebid meetings scheduled by the public owner?				
	(6) Did the contractor provide assistance in getting required bonding, insurance, or providing alternatives to bonding or insurance for subcontractors?				
	(7) Did the contractor negotiate in good faith with interested minority businesses and refrain from rejecting them without sound reasons, based on their capabilities?				
	If the contractor has rejected an interested minority business, has the lack of qualifications been documented in writing?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(8) Did the contractor provide assistance to otherwise qualified minority businesses in need of equipment, loan capital, lines of credit, joint pay agreements to secure loans, supplies, letters of credit, or the waiver of credit that is normally required?				
	Did the contractor assist the minority businesses in obtaining the same unit pricing with the bidder's suppliers in order to help minority businesses in establishing credit?				
	(9) Did the contractor negotiate joint venture or partnership arrangements with minority businesses in order to increase opportunities for minority business participation on public construction/repair projects when possible?				
	(10) Did the contractor provide quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands?				
143-128.2(g)	Have the following terms, definitions, and conditions been properly applied in the context of minority business participation, within the context of this section?				
	(1) Has "minority business" been used to mean or applied to businesses meeting the following criteria?				
	(a) A minority business is one where at least 51% of the ownership interest is by one or more minority persons, or persons who are socially or economically disadvantaged,				
	OR a corporation where at least 51% of the stock is owned by one or more minority persons or socially and economically disadvantaged individuals.				
	<b>AND</b> (b) where the management and daily business operations are controlled by one or more of the minority or socially and economically disadvantaged individuals who own the business.				
	Has the term "minority person" been properly used and applied in contracts and bids covered by this section?				
	(2) Is the "minority person" a citizen or lawful permanent resident of the United States, who meets one of the five following criteria?				
	(a) Is the minority person Black (having origins in any of the black racial groups in Africa)?				
	(b) Is the minority person Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, Central or South America, or the Caribbean Islands, regardless of race)?				
	(c) Is the minority person Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, and Asia, the Indian subcontinent, or the Pacific Islands.)				
	(d) Is the minority person American Indian (a person having origins in any of the original Indian peoples of North America)?				
	(e) Is the minority person Female?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(3) If a business qualifies as a minority business for the purposes of this section because of ownership by a “socially and economically disadvantaged individual(s),” was the definition of “socially and economically disadvantaged” based on the definition in the United States Code, 15 U.S.C. 637?				
143-128.2(h)	Have the municipalities, counties, and other public bodies awarded the contracts governed by G.S. 143- 128.1, 143-129 and 143-131 without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition [Defined in G.S. 168A-3]?				
	Nothing in this section should be interpreted to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from minority business contractors or minority business subcontractors <i>who do not submit the lowest responsible, responsive bid(s)</i> . Has the local government unit complied with this restriction?				
143-128.2(i)	Have public records related to minority participation efforts related to the building project(s) been kept by the public entity for at least 3 years after the completion of the building project?				
143-128.2(j)	Except for subsections (a), (g), (h) and (i), this section applies only to building projects costing \$300,000 or more. Has the local unit correctly applied this guideline?				
	This section does not apply to the purchase or erection of prefabricated or re-locatable buildings, except for that portion of work which must be done on the construction site. Has the local unit correctly complied with this guideline?				
143-128.3(a)	<b>Minority business participation administration.</b>				
	If the public entity is subject to G.S. 143-128.2, has it reported the following information to the Dept. of Administration, Office of Historically Underutilized Businesses, for each of its building projects?				
	(1) Has the local unit reported the verifiable percentage goal?				
	(2) Has the local unit reported the type and dollar value of the project?				
	Has the local unit reported minority business utilization by minority business category, trade, and the total dollar value of contracts awarded to each minority group for each project?				
	Has the local unit reported the good faith effort guidelines or rules used to recruit minority business participation?				
	Has the local unit provided copies of the good faith documentation provided by the successful bidder?				
	(3) Has the local unit reported the utilization of minority businesses under the various construction methods described in G.S. 143-128(a1)?				
	Has the local unit submitted the required data in the format prescribed by the Secretary of Administration?				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
143-128.3(b)	If a local unit has been notified by the Secretary of Administration that it has failed to comply with minority participation goals on a certain project, has the local unit developed a corrective action plan that addresses the deficiencies identified by the Secretary?				
	Has the plan been implemented, to the extent feasible, on the current project?				
	Has the plan been implemented on subsequent construction/repair projects of the local unit?				
	If the local unit has failed to file a corrective action plan or failed to implement the corrective action plan correctly and/or completely, has the local unit complied with the one or both of the following, as required by the Dept. of Administration?				
	(1) Has the local unit consulted with the Office of Historically Underutilized Businesses on a new corrective action plan?				
	Has the new corrective action plan been approved by the Dept. of Administration and the Attorney General?				
	If the local unit has been represented by one official, does that unit representative have managerial responsibility for the construction project?				
	(2) If applicable, the local unit may not bid another contract under G.S. 143-128 unless there has been a prior review of the new good faith effort corrective action plan developed under subdivision (1) above. Has the local unit complied with this?				
	Was that review conducted by the Dept. of Administration and the Attorney General?				
	If the local entity wishes to contest the decision of the Secretary of Administration, is the case filed in accordance with G.S. 150B?				
	143-128.3(e)	Has the local government unit complied with any minority participation guidelines developed by the Secretary of Administration?			
<b>Building project design</b> (Note that G.S. 133-1.1 addresses additional responsibilities and requirements of architects and engineers, beyond what is addressed below and the scope of this checklist. As always, a full reading of the statutes at issue is recommended.)					
133-1.1(a)	The local representative(s) responsible for the approval of plans and specification or the awarding or entering into of contracts will have the plans and specifications prepared by a registered architect, a registered engineer, or by both an architect and engineer, as appropriate for the particular construction project. Have the local representatives had the plans prepared by the appropriate parties? (See below.)				

G.S. Reference	Attribute	Yes	No	N/A	WP/Initials
	(1) The plans and specifications were developed by an architect/engineer for repair projects estimated to cost \$300,000 or more, for repair work that does not include major structural change in framing or foundation support, or \$500,000 for the repair of public buildings by the University of North Carolina or its constituent institutions where such repair does not include major structural change in framing or foundation support systems.				
	(1a) or \$100,000 or more for the repair of public buildings affecting life safety systems.				
	(2) The plans and specifications were developed by an architect/engineer for repair projects estimated to cost \$135,000 or more, for repair work that does include major structural change in framing or foundation support?				
	(3) The plans and specifications were developed by an architect/engineer for repair projects estimated to cost \$135,000 or more, for the construction of or addition to public buildings?				
	Has the architect and/or engineer included his/her North Carolina seal on such plans or specifications?				
	Is the name and address of the architect and/or engineer included with the North Carolina seal?				
133-1.1(d)	On projects where no registered architect or engineer is required pursuant to this section, has the local unit received certification from a city or county inspector for the specific construction trades involved, that the project is in compliance with the State Building Code?				
	OR, for such projects described above, has the local unit received certification from a registered architect or engineer that the project is in compliance with the State Building Code?				
133-1.1(d)(1)	No certification is required under this subsection if any of the following subdivisions apply.				
	Is the project exempt from certification under this subsection because the plans and specifications were approved by the Dept. of Administration, Division of State Construction?				
	And, the completed project has been inspected by the Division of State Construction and the State Electrical Inspector?				
133-1.1(d)(2)	Is the construction project itself exempt from the State Building Code?				
133-1.1(d)(3)	Is the project exempt from certification under this subsection because the estimated total cost is less than \$100,000? And, the project does not alter life safety systems?				
1-53(1)	<b>Statute of Limitations on Breach-of-Contract</b>				
	Concerning a contract to improve real property, were breach-of-contract lawsuits brought about no later than 90 days after (i) substantial completion of the project as defined in G.S. 1-50(a)(5)(c), as long as proper notice of the claim has been given if required by the contract, or (ii) if prior to substantial completion the contract was terminated by either party, such an action may be brought no later than 90 days after the date of termination of the contract?				