



Doing Business with the Town

August 21, 2023

Agenda

- Four Types of Contracts
- Limits and Thresholds
- Procurement Requirements
- Informal Bidding Requirements
- Formal Bidding Requirements
- Mini-Brooks Act Requirement and Exemption
- IT Procurement - RFP Option and Procedures
- Which Rule to Follow
- Reference Handouts



Four Types of Contracts

1. “Purchase” Contract

- The purchase of “apparatus, supplies, materials, or equipment”



Four Types of Contracts



2. “Construction or Repair” Contract

- Vertical
 - Construction of a new building
 - Renovation of an old building
- Horizontal
 - Water or sewer lines
 - Broadband installation
 - Road construction



Four Types of Contracts



3. “Mini-Brooks Act” Services

- Architectural
- Engineering
- Surveying
- Alternative Construction Delivery Methods
 - Construction Management at-Risk
 - Design-Build
 - Design-Build Bridging
 - Public-Private Partnership



Exemption limit is \$50,000.00



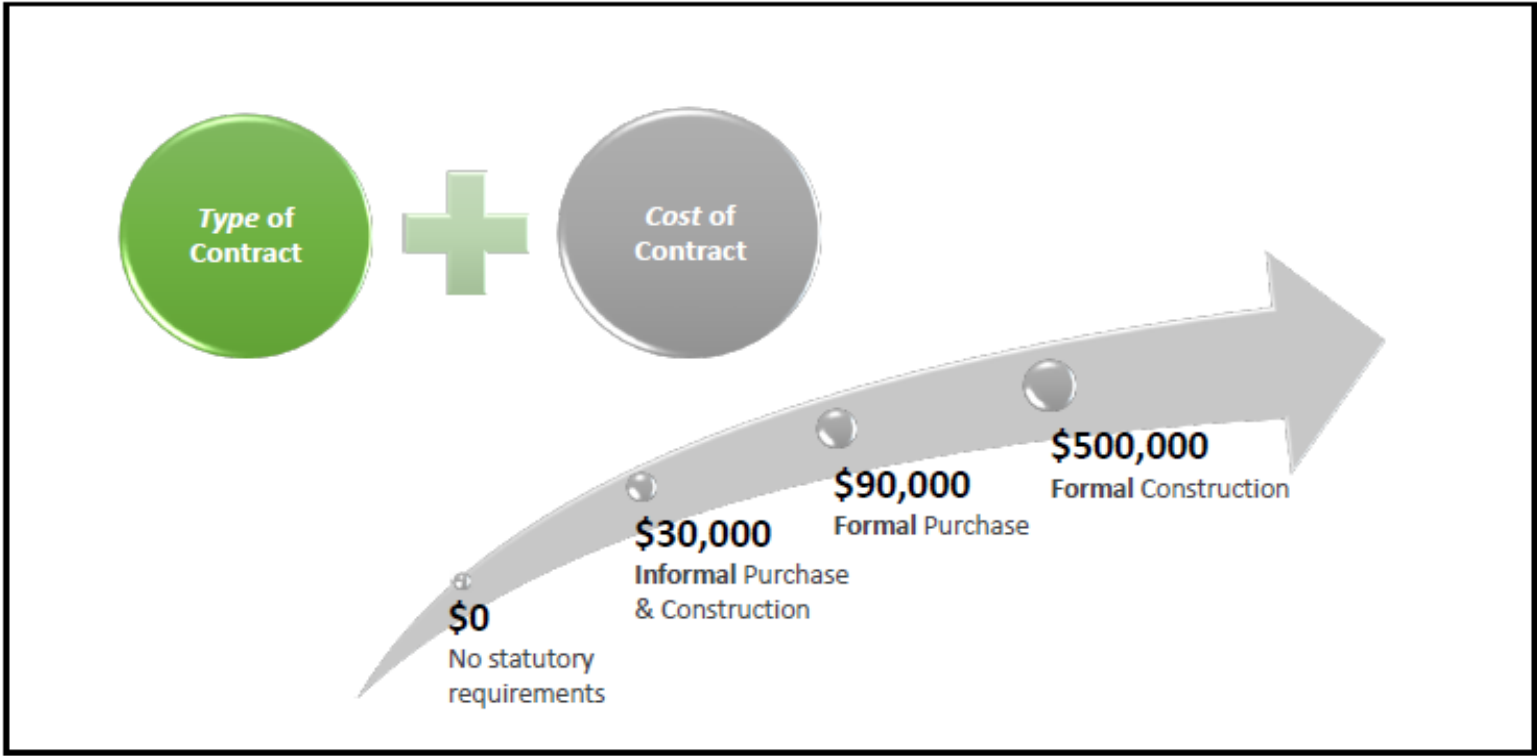
Four Types of Contracts

4. “Everything Else”

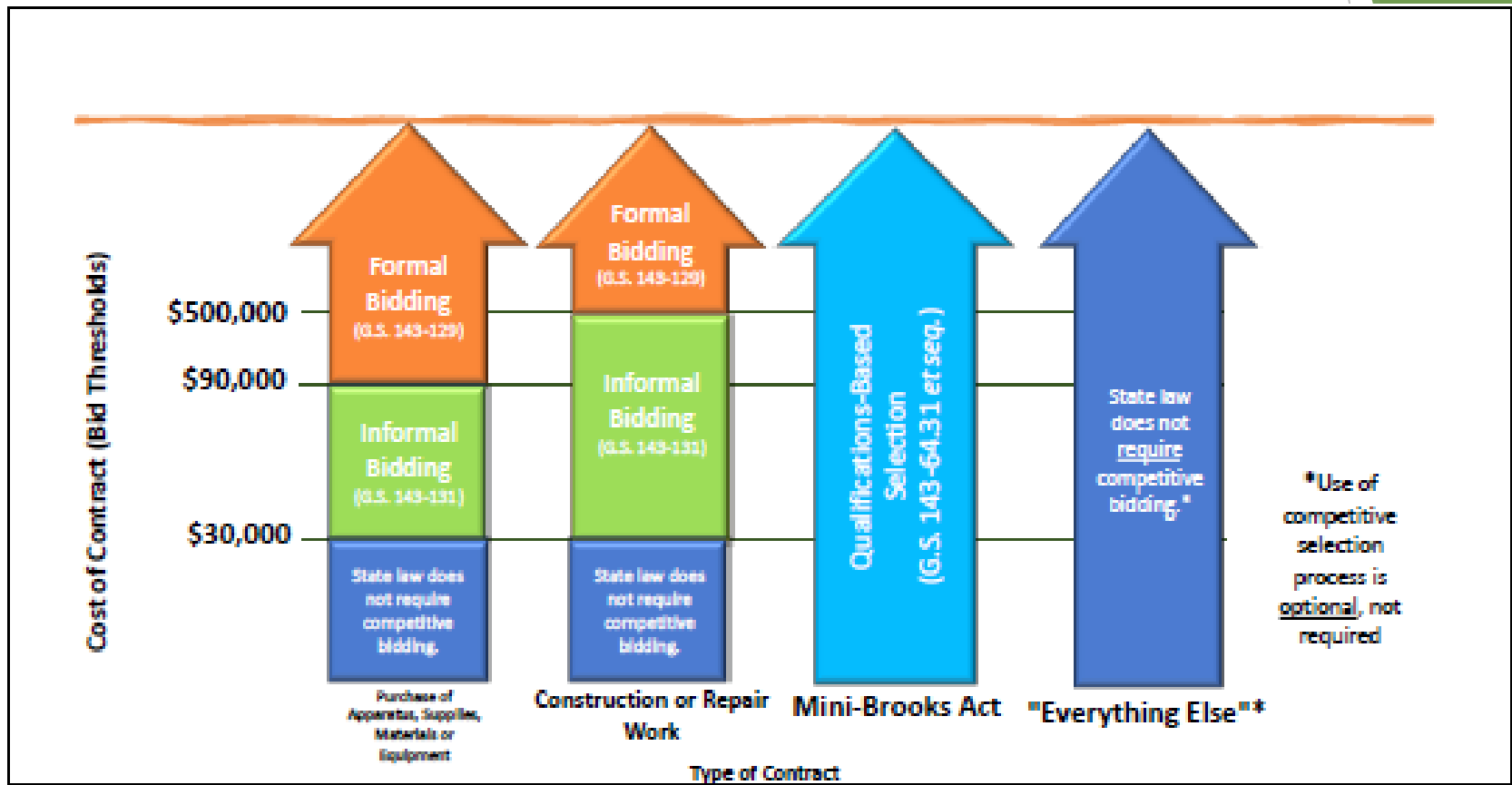
- Services
- “True” Leases
- Purchase of Real Property



Four Types of Contracts....Consider “Thresholds”



Basic Procurement Rules – N.C. Law



Town of Morrisville Purchase Thresholds

- Up to \$1,999.99 – use Town issued P-card
- \$2,000 – \$4,999.99 – purchase directly and pay via invoice
- \$5,000.00 and up – Purchase order required
- Additional quotes needed over \$5,000.00.
 - Up to \$30K require 2 quotes
 - \$30K - \$90K require 3 quotes
 - Over \$90K – Formal bidding requirement.



Example Company
The Business Partner

QUOTATIONS

QUOTATION # _____
 REFERENCE _____
 ISSUE DATE: MM/DD/YYYY
 VALID UNTIL: MM/DD/YYYY

BILLING ADDRESS: _____
 SHIPPING ADDRESS: _____

Item Code	Item Name	Qty	Unit Cost	Discount	Net	Subtotal
			\$ 25		1.00	1.00
Total Service Fee						
	Service Fee				1.00	1.00
	Discount				1.00	1.00
	Tax				1.00	1.00
	Total				1.00	1.00

INVOICE

INVOICE # 2034 DATE 2/21/2018
 CUSTOMER ID 504 TERMS Due Upon Receipt

[Company Name]
 [Street Address]
 [City, ST ZIP]
 Phone: (000) 000-0000

BILL TO
 [Name]
 [Company Name]
 [Street Address]
 [City, ST ZIP]
 [Phone]
 [Email Address]

QTY	UNIT PRICE	AMOUNT
1	200.00	200.00
5	75.00	375.00
	(50.00)	(50.00)

DESCRIPTION
 Service Fee
 Labor: 5 hours at \$75/hr
 New client discount

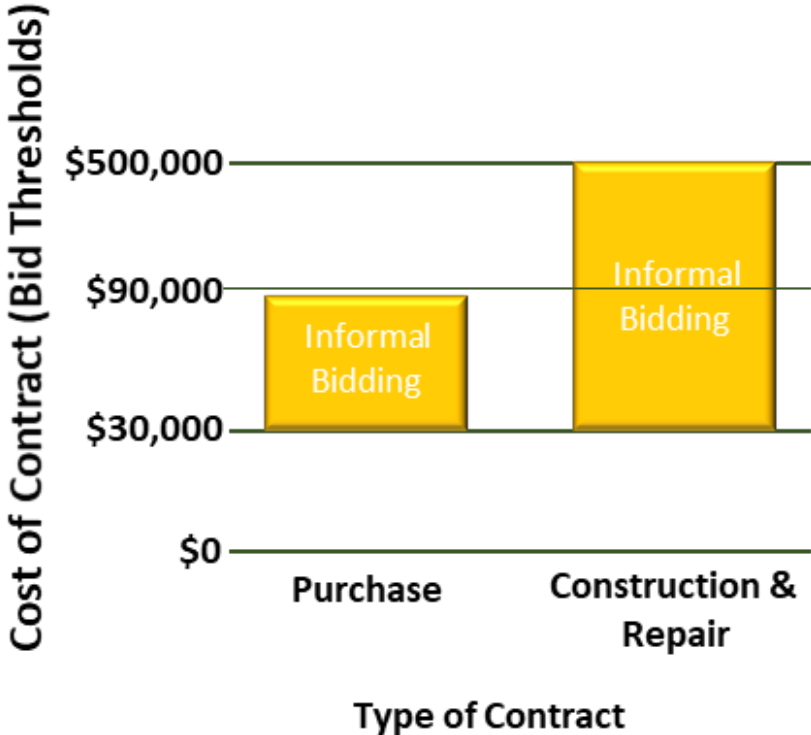


Summary of Procurement Requirements Under N.C. Law

	Informal	Formal	QBS	RFP
Solicitation / Advertisement	Not required	Newspaper/ electronic at least 7 days before bid opening	Must "announce" requirements	Not required (IT—must advertise like formal bid)
Form / Minimum #	Any form; keep record; no minimum #	Sealed bids; 3-bid minimum for construction contracts	No specific form required; no minimum #	No form required (IT—sealed proposals)
Public bid opening	Not required	Required	Not required	Not required
Standard of Award	Lowest responsive, responsible bidder	Lowest responsive, responsible bidder	Best qualified, regardless of cost	Best meets criteria set in the RFP
Board Approval	Not required	Required (may delegate for purchases only)	Not required	Not required
Public Record	Record of bids not public until contract award	Bids public when opened	Proposals public when opened	Public when opened (IT— not public until contract award)



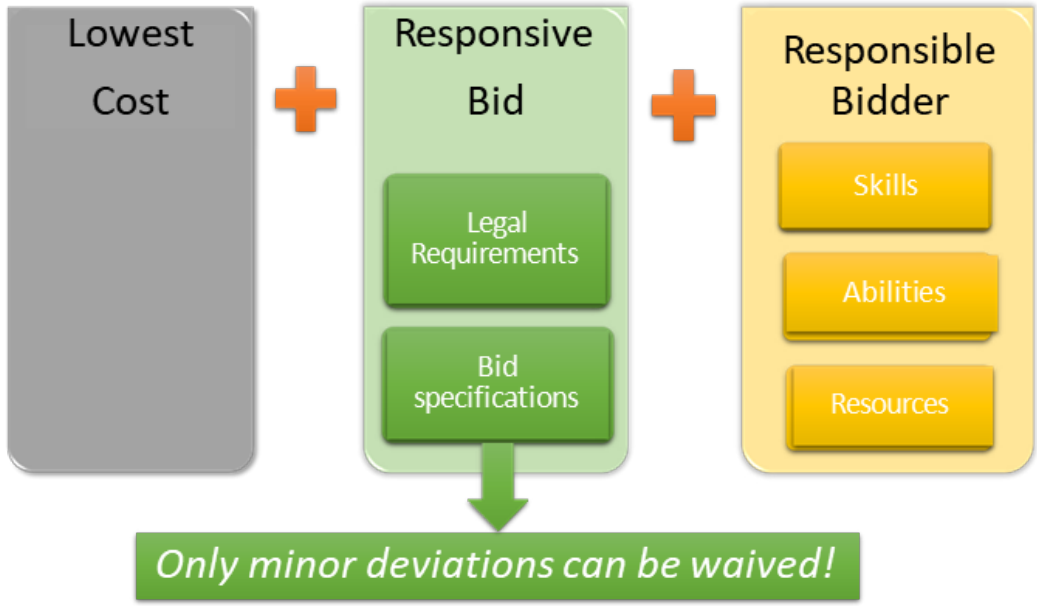
Informal Bidding Requirements Under N.C. Law



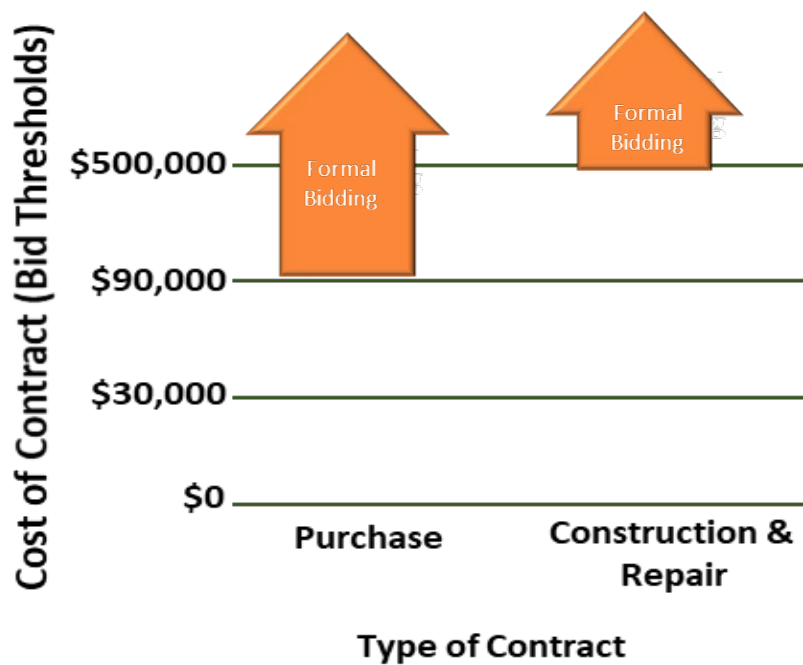
- ✓ Keep record of bids
- ✓ Award to lowest responsive responsible bidder
- No specific method of advertising
- No specific form of bids
- No minimum number of bids
- No public bid opening
- No governing board approval



Lowest Responsive, Responsible Bidder Standard of Award



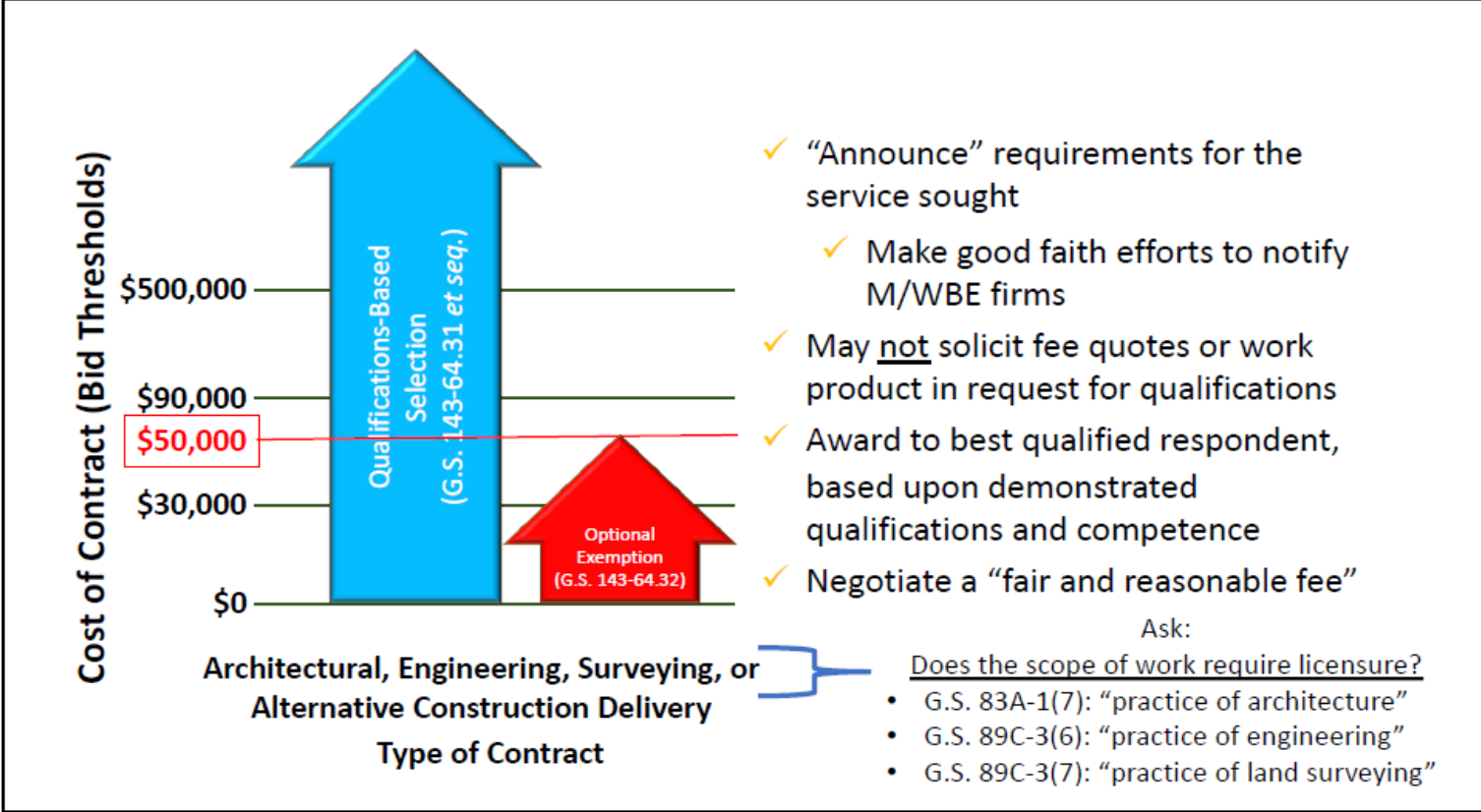
Formal Bidding Requirements Under N.C. Law



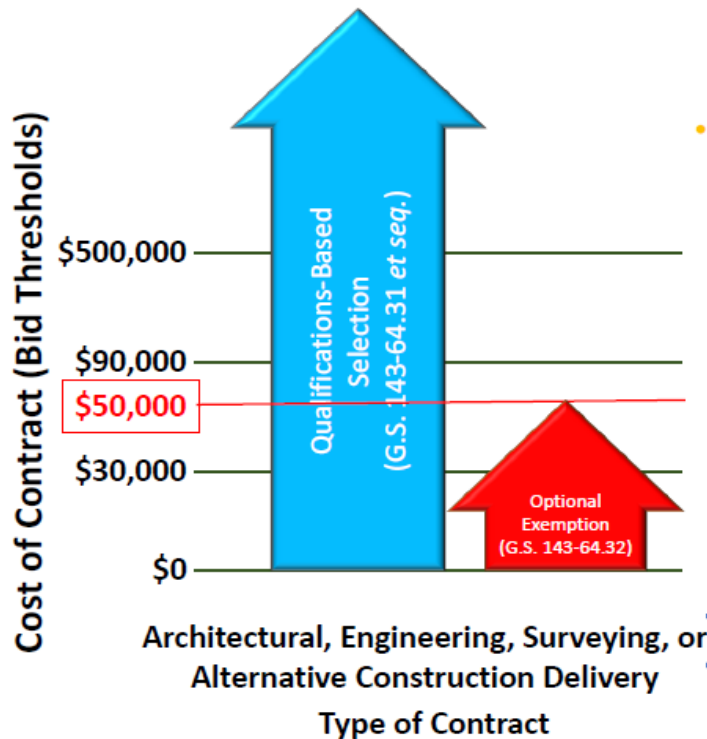
- ✓ Advertise in newspaper for at least 7 full days (electronic advertisement only requires board approval)
- ✓ Sealed bids
- ✓ Public bid opening
- ✓ Award to lowest responsive responsible bidder
- ✓ Governing board approval (may delegate for purchases)
- ✓ For construction only:
 - ✓ 3-bid minimum
 - ✓ 5% bid bond or security



Mini-Brooks Act Requirements Under N.C. Law



Mini-Brooks Act Exemption (G.S. 143-64.32)



- May “in writing” exempt “particular projects” where “an estimated professional fee” is less than \$50,000.

- “In Writing”
 - Staff memorandum or board resolution.
- “Particular Projects”
 - Case-by-case basis.

Ask:

Does the scope of work require licensure?

- G.S. 83A-1(7): “practice of architecture”
- G.S. 89C-3(6): “practice of engineering”
- G.S. 89C-3(7): “practice of land surveying”

IT Procurement – RFP Option (G.S. 143-129.8)

- What is it?
 - An optional request-for-proposals procedure that can be used in lieu of traditional competitive bidding procedures.
- When can it be used?
 - To purchase combinations of “information technology” goods and services
- What is “information technology”? (G.S. 143-1320(a)(11)).
 - A set of tools, processes, and methodologies, including, but no limited to:
 - Coding and programming
 - Data communications, conversion, analysis, and architecture
 - Planning, storage, and retrieval, systems analysis and design, systems control
 - Mobile applications, and equipment and services employed to collect, process, and present information to support the operation of an organization.
 - The term also includes office automation, multimedia, telecommunications, and any personnel and support personnel required for planning and operations.
- Why use it?
 - Standard of Award = “Best Overall Proposal”



IT Procurement – RFP Option Procedures (G.S. 143-129.8)

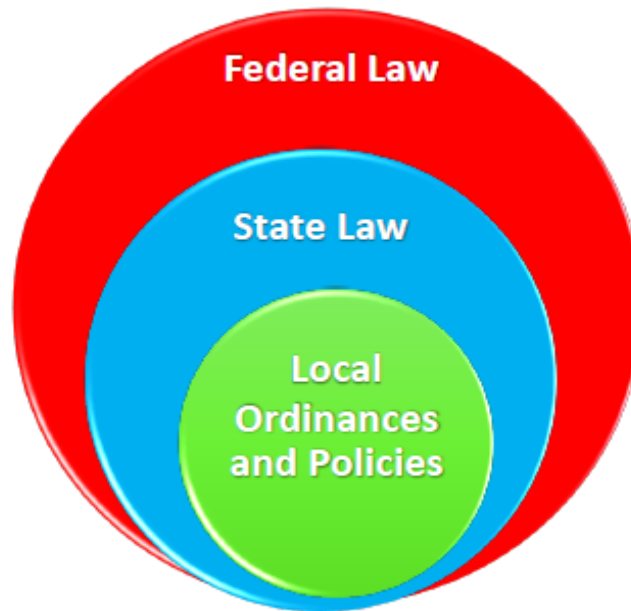
1. Unit conducts formal advertisement of RFP (using G.S. 143-129 procedures). Unit evaluates proposals based upon criteria in RFP.
 - Standard of Award = “Best Overall Proposal”
 2. Unit may negotiate with any proposer, but may not alter final contract beyond scope of RFP as originally advertised
 3. Unit’s governing board may, but is not required to, approve final contract.
- Proposals are not subject to public inspection until contract award.



Which Rule to Follow?

Sources of Legal Requirements

Always follow the
“Most Restrictive
Rule”



Four Essential Questions for Every Procurement Action

1. What is the funding source?
2. What procurement rules apply to our unit based upon the funding source?
3. Of the applicable procurement rules, which is the most restrictive?
4. Have I documented our application of the applicable rules?

