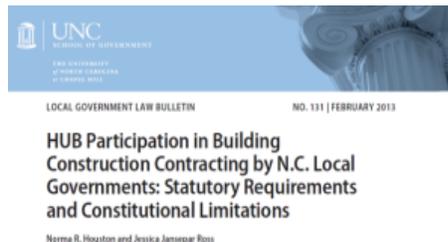

Coates' Canons Blog: New SOG Publication on HUB Participation Requirements . . . And Other SOG Purchasing and Contracting Resources

By Norma Houston

Article: <https://canons.sog.unc.edu/new-sog-publication-on-hub-participation-requirements-and-other-sog-purchasing-and-contracting-resources/>

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Which of the following statements is true?

1. A local government can reject a construction bid if the bidder does not list enough HUB subcontractors to meet the local government's HUB participation goals.
2. If a bidder forgets to identify on his bid the HUB subcontractors he plans to use on a project, he can submit this information within 72 hours after the bid opening.
3. Because HUB participation goals under North Carolina law are merely aspirational and not mandated quotas, the courts don't review these programs strictly.
4. HUB participation requirements apply to all local government construction and repair projects.

To learn the answers to these and other questions about Historically Underutilized Business [HUB] participation requirements that apply to North Carolina local governments, check out a new SOG local government law bulletin ([click here for a free downloadable pdf version](#)).

Our new bulletin, *HUB Participation in Building Construction Contracting by N.C. Local Governments: Statutory Requirements and Constitutional Limitations (LGLB No. 131)*, focuses on the legal requirements for HUB participation in local government contracting: Part I outlines the statutory requirements under North Carolina law for HUB participation in public building construction and repair projects (**GS 143-128.2**, **GS 143-128.3**, and **GS 143-128.4**), and Part II examines the constitutional limitations placed on such programs by federal court cases. In an appendix to the bulletin you'll find a HUB participation program checklist that lists the various statutory requirements and constitutional limitations applicable to each of the three main HUB program components: participation goals, good faith efforts, and reporting requirements.

I want to give well-deserved credit to my co-author, Jessica Jansepar Ross. Jessica served as a School of Government law clerk last summer, and her research, analysis, and writing contributions, especially to the discussion of constitutional limitations contained in Part II of the bulletin, were invaluable (those of you who are lawyers will truly appreciate Jessica's chart on page 14 of the bulletin, which succinctly outlines all the elements of the strict scrutiny analysis applied by the federal courts in challenges to HUB programs).

This bulletin was a direct result of questions we received from local governments on this topic and their desire to have a resource that would help them understand this complex area of the law. HUB participation programs are just some of the many legal requirements imposed on local governments when they contract for certain types of building construction and repair projects. A number of legal requirements also apply to other types of construction and repair projects as well as contracts for purchases and design services. Some requirements apply to all local government contracts. For example, the preaudit requirement about which **Kara Millonzi recently blogged** – if you've not heard about the Court of Appeals'

recent decision reinterpreting the preaudit requirement, Kara's blog is a "must-read".

Sorting through, understanding, and complying with these legal requirements can be daunting. Our SOG Local Government Purchasing and Contracting website contains a wealth of information including **publications**, links to bidding and contracting **statutes**, and really cool charts, checklists, and other **tools** designed to help local governments navigate through the complex world of public procurement and contracting. Simply go to **www.ncpurchasing.unc.edu** and, if you can't find a resource that you need, let me know. Oh, and did I mention that this site also includes information on property disposal such as charts describing which procedures can be used for different types of property, as well as sample **forms** for property disposal and purchasing? The resources on this website have been developed over the years by SOG faculty including David Lawrence, Eileen Youens, and Frayda Bluestein, and most of them are free.

We hope you will visit and make use of the resources on our **local government purchasing and contracting website**, where you can also find a copy of our new HUB Participation Programs bulletin.

Still wondering about the answers to the true/false quiz at the beginning of the post? The answer is, they're all false. To find out why, read the bulletin!

Links

- canons.sog.unc.edu/wp-content/uploads/2013/02/Blog-LGLB-graphic11.png
- sogpubs.unc.edu/electronicversions/pdfs/lglb131.pdf
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-128.2.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-128.3.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_143/GS_143-128.4.html
- canons.sog.unc.edu/?p=6910
- www.sog.unc.edu/resource-series/publications-2
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