

§ 143-133.1. Reporting.

(a) Governmental entities that contract with a construction manager at risk, design-builder, or private developer under a public-private partnership shall report to the Secretary of Administration the following information on all projects where a construction manager at risk, design-builder, or private developer under a public-private partnership is utilized:

- (1) A detailed explanation of the reason why the particular construction manager at risk, design-builder, or private developer was selected.
- (2) The terms of the contract with the construction manager at risk, design-builder, or private developer.
- (3) A list of all other firms considered but not selected as the construction manager at risk, design-builder, or private developer.
- (4) A report on the form of bidding utilized by the construction manager at risk, design-builder, or private developer on the project.
- (5) A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.

(b) Except as provided in subsection (b1) of this section, the Secretary of Administration shall adopt rules to implement the provisions of this section, including the format and frequency of reporting.

(b1) The Board of Governors of The University of North Carolina shall adopt rules to implement the provisions of this section for The University of North Carolina, including the format and frequency of reporting. The rules shall include that constituent institutions of The University of North Carolina shall report the information required by subsection (a) of this section to the Board of Governors on an annual basis.

(c) A governmental entity letting a contract pursuant to any of the delivery methods identified in subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 shall submit the report required by this section no later than 12 months from the date the governmental entity takes beneficial occupancy of the project. In the event that the governmental entity fails to do so, the governmental entity shall be prohibited from utilizing subdivisions (a1)(4), (a1)(6), (a1)(7), or (a1)(8) of G.S. 143-128 until such time as the governmental entity completes the reporting requirement under this this section. Contracts entered into in violation of this prohibition shall not be deemed ultra vires and shall remain valid and fully enforceable. Any person, corporation or entity, however, which has submitted a bid or response to a request for proposals on any construction project previously advertised by the governmental entity shall be entitled to obtain an injunction against the governmental entity compelling the governmental entity to comply with the reporting requirements of this section and from commencing or continuing a project let in violation of this subdivision until such time as the governmental entity has complied with the reporting requirements of this section. The plaintiff in such cases shall not be entitled to recover monetary damages caused by the governmental entity's failure to comply with this reporting requirements section, and neither the plaintiff nor the defendant shall be allowed to recover attorneys fees except as otherwise allowed by G.S. 1A-11 or G.S. 6-21.5. An action seeking the injunctive relief allowed by this subdivision must be filed within four years from the date that the governmental entity took beneficial occupancy of the project for which the report remains due.

(d) For purposes of this section, the term "governmental entity" shall have the same meaning as in G.S. 143-128.1B(a)(6). (2014-42, ss. 3, 5; 2021-80, s. 2.9.)