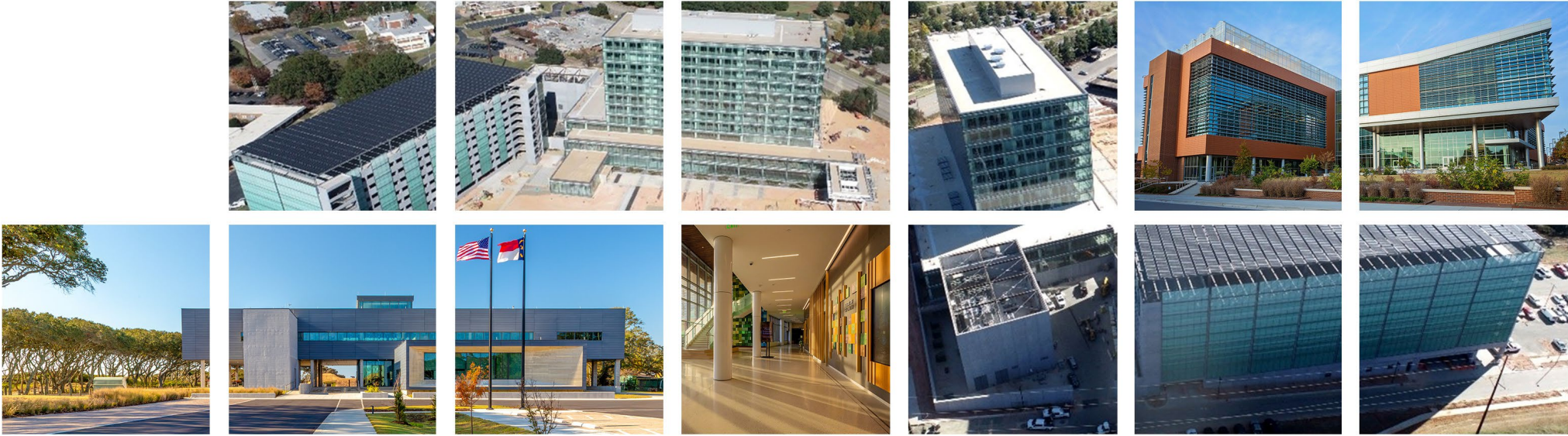


Construction, Commodities, and Consequences

**PEAK Conference – March 31, 2026
Raleigh, NC**



Construction, Commodities, and Consequences

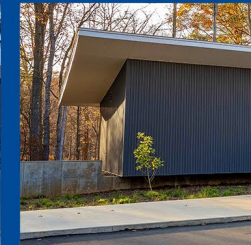
Presenters:



Robert Talley, PE
DOA State Construction Office
Assistant Director
Consulting Services



David O'Neal
DOA Purchase & Contract
State Purchasing Officer

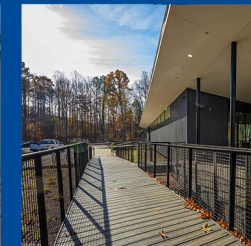
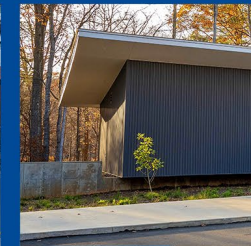
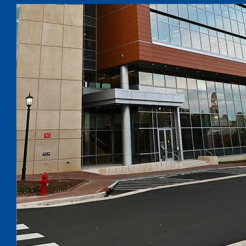
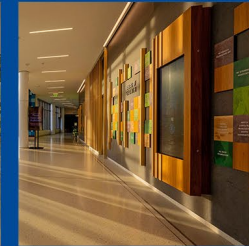


NC★DOA
Department of Administration
State Construction Office

Construction, Commodities, and Consequences

Agenda:

- **Construction vs P&C**
- **Characteristics**
- **Applicable rules and thresholds**
- **Consequences of using the wrong delivery method**
- **Examples from past projects**





Question:
**Is my project
construction?**



Construction or P&C?



What is construction?

§ 44A-25

"Construction contract" means any contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highways.

What is construction?

Federal Acquisition Regulation (FAR)

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property.

What is construction?

Occupational Safety and Health Administration (OSHA)

“Construction Work” is construction, alteration, and/or repair, including painting and decorating.

“Maintenance” involves keeping equipment working in its existing state, *i.e.*, preventing its failure or decline.

What is construction?

Associated General Contractors of America (AGC)

Renovation is a significant cosmetic or functional changes or upgrades to a property.

Repair is fixing or restoring something that is damaged or malfunctioning to its original condition.

What is construction?



Think construction when...

- New build
- Renovations
- Repairs
- Upgrades
- Large or complex maintenance
- Life Safety

What is appropriate for P&C?



Think P&C when...

- Furniture, Fixtures, & Equipment
- Maintenance



Question:
**What rules
govern public
construction?**



Public construction rules & thresholds.

§ 87-1

“General Contractor” is a person or firm who bids, builds, or manages construction exceeding ~~\$30,000~~ **\$40,000**.

Public construction rules & thresholds.

§ 87-1.1

A licensed M,E, or P contractor may enter into contracts directly for services of the same when:

- M, E, or P contractor is properly licensed.
- The total “general” construction work does not exceed 25% of the total construction cost.
- A licensed GC performs the “general” construction work.

Public construction rules & thresholds.

§ 133-1.1

Public construction requires plans and specification generated by an architect and or engineer when a project exceed:

- \$300,000 for repairs.
- \$100,000 for repairs affecting life safety systems.
- \$135,000 for repairs involving major structure change.
- \$135,000 for the construction of, or addition to, a public building.

Public construction rules & thresholds.

§ 143-128

Defines the delivery methods available to public construction contracts.

- Design-Bid-Build
- Construction Manager at Risk
- Design-Build
- Design-Build Bridging
- Public Private Partnership

Public construction rules & thresholds.

§ 143-128

- Establishes a “dispute resolution process” that is available to any party to a construction contract.
- Dispute resolution process must include mediation.
- Claims must be heard by the Director of the State Construction Office.
- If resolution process fails, only then can a Party bring civil action or a contested case.

Public construction rules & thresholds.

§ 143-128.2

Minority business participation goal of 10% on projects exceeding \$300,000.

Public construction rules & thresholds.

§ 143-129, § 143-131 and § 143-132

Establishes \$30,000 - \$499,999 as threshold for “informal” projects.

- Must solicit informal bids and award to lowest bidder.

Establishes \$500,000 as the threshold for “formal” projects.

- Must be publicly advertised for at least 21-days.
- Bid bond required.
- Performance and payment bonds required (§ 44A-26).
- Must get 3-bids. If not, readvertise for 7-days and must get 1-bid.
- Must award to lowest bidder.

Public construction rules & thresholds.

§ 143-133

A large project may not be divided into smaller parts to circumvent public bidding laws.

Public construction rules & thresholds.

§ 143-341. Powers and duties of DOA

- To examine and approve all plans and specifications for the construction or renovation of Community College projects above their delegated authority.
- Supervise and inspect all work done in the construction or renovation of all community college buildings whose plans and specifications must be examined and approved.



Question:
**What rules
govern P&C?**





Laws and Regulations

Sources of Authority

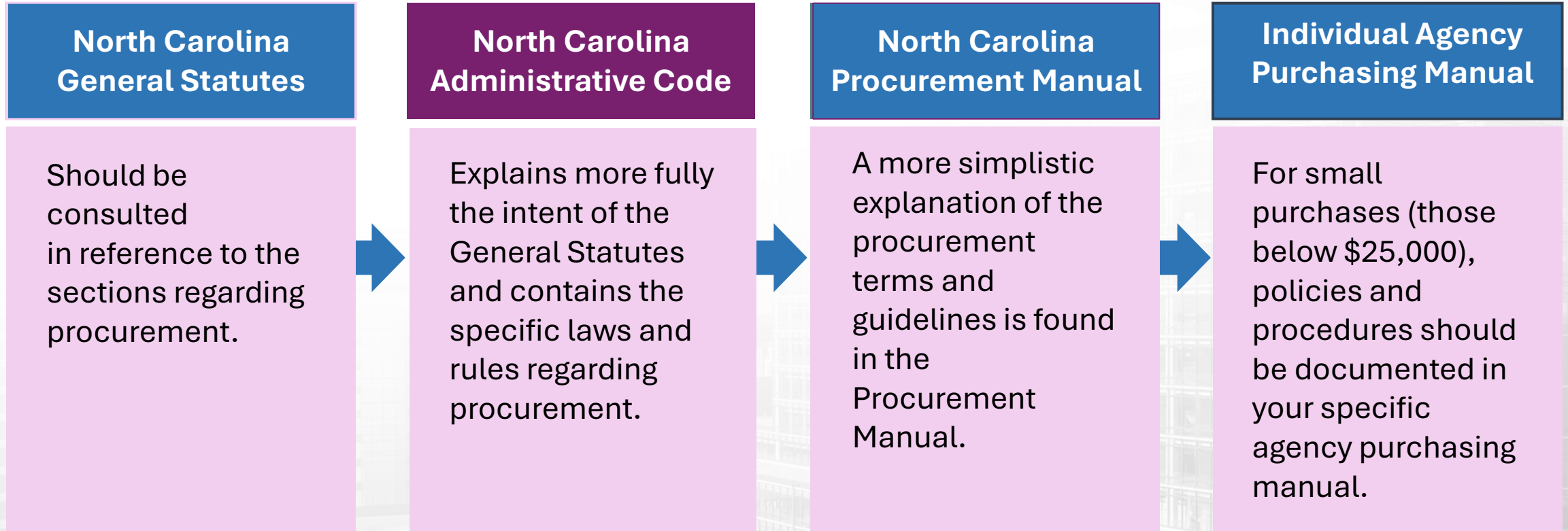
Statutory (NCGS)

- General Statutes
- GS Chapter 143, Article 3

Administrative Code (NCAC)

- 01 NCAC 05A
- 01 NCAC 05B

Sources of Authority



Other Sources of Authority

G.S. Chapter 143, Article 8

- Governs state construction and local government
- Some overlap but distinct requirements

SITP (IT) Procurement

- 09 NCAC 06A
- 09 NCAC 06B

Thresholds Defined

Small Purchase

Informal Bidding

Formal Bidding

Small Purchases

- Current threshold is \$29,000
- Updated every two (2) years (Scheduled for July 2025)
- Agencies will develop written procedures for the administration of Small Purchases
- Agencies should develop initiatives to encourage and promote the use of HUB vendors

Informal Bidding

- Procurements between the Small Purchase benchmark (\$29,000) and the agency's general delegation
- “Three quotes and a buy”
- Utilize P&C templates and Terms and Conditions
 - RFQ, IQR, or Collaborative Requisitioning (No minimum response time)
 - Sealed bidding using RFP and IFB is still an option
- Agencies will:
 - Develop, issue/post, negotiate, and award solicitations
 - Hear bid protests
- Agencies should develop initiatives to encourage and promote the use of HUB vendors

Formal Bidding

- All purchases that exceed agency's general delegation limit
- Requires competitive, sealed bidding (IFB and RFP)
 - A "Sealed Offer" is one that remains unopened until the public opening time stated in the Solicitation
- Requires P&C review and approval prior to posting (preliminary review) and prior to award

Contracts Over \$1 Million



Legal review is required for all solicitations



Pre-Solicitation Review - before posting



Pre-Award Review - after evaluation and prior to award



Universities - go through own counsel; NCGS 114-8.3(b)



Question:
**What are the
consequences
of choosing
incorrectly?**

Consequences.

- A contract that does not favor the Owner.
- A contract that does not align with State law.
- AHJ / SCO reviews occur post contract.
- Code misses.
- Possible rework.
- Delays and added cost due to contractual irregularities.
- Claims without proper SCO support.

NCA&T Truist Stadium



**NORTH CAROLINA AGRICULTURAL
AND TECHNICAL STATE UNIVERSITY**

NCA&T Truist Stadium

- “ADA restroom modifications”
- Licensed GC
- Demo existing
- Furnish and install all equipment, materials, supplies, and hardware.
- Reset partitions & plumbing fixtures
- Start 2/8/2019. End 3/29/2019
- Material specifications included
- P&C Terms and Conditions



NCA&T Truist Stadium

- After award, Owner placed untimely stipulations on the project.
- Stipulations delayed the vendor
- Vender proposed an amendment
- Amendment rejected by the Owner
- What's supposed to happen next?



EV Charging Stations



Statewide Term Contract 2613A – Electric Vehicle Charging Station Equipment, Accessories, Installation, and Infrastructure



LEVEL 1	LEVEL 2	DCFC (LEVEL 3)
Typical Output: 110 volts	Typical Output: 220 volts	Typical Output: 480 volts
Shear Loads: N/A	Shear Loads: 200 - 500 lbs	Shear Loads: 500 - 1000 lbs
Foundation Pipe Diameter: N/A	Foundation Pipe Diameter: 2-3/8 to 4-1/2 inches	Foundation Pipe Diameter: 4 to 6-5/8 inches
EV Infrastructure Foundations: www.HPSdelivers.com/EV		



EV Charging Stations

Agency Responsibilities / Agency Participation

Site Preparation

The State shall meet the following site preparation requirements before any equipment can be delivered on site for installation.

THE STATE MUST SUBMIT PLANS BY A PROFESSIONAL ENGINEER LICENSED TO PRACTICE IN THE STATE OF NORTH CAROLINA TO THE STATE CONSTRUCTION OFFICE FOR ALL SITE AND FACILITY REVIEW TO ENSURE THAT THE EXISTING ELECTRICAL GRID FOR THE BUILDING WILL SAFELY AND EFFECTIVELY HANDLE THE LOAD REQUIRED FOR THE EQUIPMENT THAT IS DESIRED TO BE PROCURED AND INSTALLED. THIS WILL ENTAIL DESIGN AND SCOPE PREPARATION BY THE ENGINEER FOR APPROVAL FROM SCO. SCO APPROVAL MUST BE ACQUIRED PRIOR TO ANY REQUESTED QUOTE OR INSTALLATION FROM STC VENDORS.

ANY NON-MANDATORY ENTITIES, INCLUDING SCHOOLS AND LOCAL GOVERNMENT, THAT ARE ALLOWED BY GENERAL STATUTE TO USE THIS CONTRACT SHALL MEET THE SITE PREPARATION REQUIREMENTS AS THEY APPLY ON THE RESPECTIVE LOCAL LEVEL, BEFORE ANY EQUIPMENT CAN BE DELIVERED ON SITE FOR INSTALLATION. THE SCO WILL NOT BE REQUIRED TO REVIEW OR APPROVE ANY DESIGN OR SCOPE PREPARATION FOR ANY ENTITIES NOT IDENTIFIED IN N.C. GENERAL STATUTE 143-341(3).

NCSS&M Modular Dorms

- Modular dorms procured and installed by Owner.
- Site and infrastructure designer hired by Owner using QBS.
- Behaved somewhat like a multi-prime construction contract
- No defined “project expediter”



NCSS&M Modular Dorms

- Site Elec
 - 480/277 volt 3 phase
- Modular 120/240 volt single
- Fire alarm ?
- Sprinkler system ?
- Sprinkler service line protect
- Fire access drive
- New sanitary tap



NCSS&M Modular Dorms



Modular Pump Station

- Good specification
- Required modular label
- Lead time was ruled to long
- Contractor procured one
- No modular tag
- Could not be accepted



Audio Visual and Photographic Equipment & Accessories



Statewide Term Contract 880A - Audio Visual and Photographic Equipment and Accessories

Contract Covers

This contract is intended to cover the state's normal requirements for various types of audio visual and photographic equipment and accessories in the following categories:

- CATEGORY A** AV/TV and LAPTOP STORAGE CARTS
- CATEGORY B** DIGITAL CAMERAS and LENSES
- CATEGORY C** DIGITAL PROJECTORS, DLP
- CATEGORY D** TELEVISIONS (All types and sizes - LCD, LED, PLASMA, 4K)
- CATEGORY E** HEADPHONES, MICROPHONES, and MEGAPHONES
- CATEGORY F** TOUCHSCREEN INTERACTIVE DISPLAY SYSTEM
- CATEGORY G** LECTERNS and PODIUMS
- CATEGORY H** LISTENING CENTERS
- CATEGORY I** PRESENTATION CARTS
- CATEGORY J** PROJECTION SCREENS
- CATEGORY K** PUBLIC ADDRESS EQUIPMENT
- CATEGORY L** VIDEO WALL DISPLAYS (All sizes)



A/V Equipment Example



- **Placed order via STC 880A**
- **Building Coordinator did not verify with SCO**
- **Project cost almost tripled due to Design considerations that were not initially a part of the project**

Construction, Commodities, and Consequences

Thank you!

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