

01 NCAC 30G .0104 GENERAL PROCEDURES

(a) Application Form - The SBC shall establish a form of application to be used by public owners requesting an exemption, which shall upon request be provided to public owners. A completed application shall contain all of the information necessary to enable the SBC to determine the appropriateness and merits of approving an exemption.

(b) Rules for Application - The SBC, upon request, shall provide public owners with a copy of the rules it adopts under the authority of G.S. 143-135.26(9).

(c) Review of Application:

- (1) The public owner shall submit the application to the State Construction Office, Attention: Director, Department of Administration, New Education Building, Suite 450, 301 North Wilmington Street, Raleigh, North Carolina 27601-2827. The Director shall review the application upon its receipt. If the Director determines that the application is not complete, he shall return the application to the public owner along with a written notice of the reasons for the return. Despite the return of an application, a public owner may request in writing to the Director that the SBC consider the application as originally submitted, and the notice of return to the public owner shall so state this option. An application shall be considered abandoned if it is returned pursuant to this section, and no further action is taken by the public owner to satisfy the reasons for its return.
- (2) Completed applications shall be considered within 60 days of receipt by the Director of the completed application. Once scheduled for consideration by the SBC, the public owner shall be given notice of the date, time and location of the SBC meeting at which the application shall be considered.
- (3) The SBC shall only accept written applications. After due consideration of these applications, the SBC shall take one of the following actions:
 - (A) Delay consideration of the application;
 - (B) Deny the application; or
 - (C) Approve the application.

Within five days of the SBC's action upon the application, notice of the same shall be sent to the public owner, and to the Director. Upon a delay of consideration pursuant to Paragraph (a) of this Rule, the SBC shall immediately request from the public owner or other person further information required in order to make a determination, or provide the public owner with notice of the reason for the delay.

(d) Approval of an Application - Approval of an application authorizes the public owner to utilize only the alternative contracting method as proposed by the public owner and no other method of contracting. Approval of an application shall be effective for a period to be determined by the SBC but not exceeding 12 months. Standards used by the SBC in determining the effective length of an approval shall include, but not be limited to, the request of the public owner, the experience of the public owner, the SBC and the Director with the approved method, the recommendation of the Director, and the nature of the project. The SBC may extend the effective time period upon good cause shown by the public owner for no more than an additional 12 months. Good cause must be shown by serious reasons including, but not limited to, unforeseen acts or events that delay the project, acts of war or terrorism, unavoidable casualties or other causes beyond the public owner's control. The extension of an effective time period shall run from the last day of the prior effective time period. The effective time period shall run from the date the SBC approves the application.

(e) Conflicts of Interest - A member of the SBC is not qualified to vote upon any matter or influence any other member's vote upon any matter in which he has a conflict of interest. A conflict of interest, as related to members of the SBC having an interest in contracts authorized by the SBC, is defined in G.S. 143-135.28, and that definition applies to conflicts of SBC members having an interest in projects for which alternative contracting methods are authorized by the SBC.

(f) Public Records - The Director shall maintain a list of applications which states the name of the public owner, the name of the project, the project amount, a brief description of the category for which the exemption is sought, and a record of the SBC's action. Applications, and a record of the SBC's action upon those applications, shall be available for public inspection.

*History Note: Authority G.S. 143-135.26;
Temporary Adoption Eff. July 1, 1996;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*