

§ 136-89.194. Laws applicable to the Authority; exceptions.

(a) Motor Vehicle Laws. – The Turnpike System shall be considered a "highway" as defined in G.S. 20-4.01(13) and a "public vehicular area" as defined in G.S. 20-4.01(32). All law enforcement and emergency personnel, including the State Highway Patrol and the Division of Motor Vehicles, shall have the same powers and duties on the Turnpike System as on any other highway or public vehicular area.

(b) Applicable Contracting. – For the purposes of implementing this Article, the Authority shall solicit competitive proposals for the construction of Turnpike Projects in accordance with the provisions of Article 2 of this Chapter. Contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with construction of Turnpike Projects shall be solicited in accordance with procedures utilized by the Department of Transportation. Cost estimates prepared for the purpose of comparing bids for a Turnpike project are confidential and may not be disclosed until after the opening of bids for the project.

(c) Alternative Contracting Methods. – Notwithstanding the provisions of subsection (b) of this section, the Authority may authorize the use of alternative contracting methods if:

- (1) The authorization applies to an individual project;
- (2) The Authority has concluded, and documented in writing, that the alternative contracting method is necessary because the project cannot be completed utilizing the procedures of Article 2 of this Chapter within the necessary time frame or available funding or for other reasons the Authority deems in the public interest;
- (3) The Authority has provided, to the extent possible, for the solicitation of competitive proposals prior to awarding a contract; and
- (4) The approved alternative contracting method provides for reasonable compliance with the disadvantaged business participation goals of G.S. 136-28.4.

(d) Entry for Surveys. – The Turnpike Authority and its employees and contractors shall have the same right of entry for surveys, borings, soundings, or examinations as granted the Department of Transportation in G.S. 136-120.

(e) Plans and Contract Documents. – The requirements for registering right-of-way plans set in G.S. 136-19.4 apply to right-of-way plans of the Turnpike Authority. In applying G.S. 136-19.4 to the Authority, references to the "Department" are considered references to the "Turnpike Authority" and references to the "Board" are considered references to the "Authority Board."

Diaries and analyses for contracts of the Turnpike Authority are subject to the same restrictions on disclosure that apply to diaries and analyses for contracts of the Department under G.S. 136-28.5.

(f) Construction Claims. – G.S. 136-29 applies to the adjustment and resolution of Turnpike project construction claims. In applying G.S. 136-29 to the Turnpike Authority, references to the "Department of Transportation," the "Chief Engineer," and a "State highway" are considered references to the "Turnpike Authority," the "chief engineer of the Turnpike Authority," and a "Turnpike project."

(g) Contract Exemptions. – The following provisions concerning the purchase of goods and services by a State agency do not apply to the Turnpike Authority:

- (1) Article 3 of Chapter 143 of the General Statutes. The Authority may use the services of the Department of Administration in procuring goods and services that are not specific to establishing and operating a toll revenue system. However, the Authority shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one

million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and, (ii) include in all proposed contracts to be awarded by the Authority under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Authority may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose.

- (2) Article 15 of Chapter 143B of the General Statutes. The Authority may use the services of the Department of Information Technology in procuring goods and services that are not specific to establishing and operating a toll revenue system. However, all contract information for contracts for information technology are subject to disclosure in accordance with Article 15 of Chapter 143B of the General Statutes.

(h) APA. – Chapter 150B of the General Statutes does not apply to the Turnpike Authority, except as provided in this section and G.S. 136-89.218. (2002-133, s. 1; 2006-228, s. 6; 2008-225, s. 6; 2010-194, s. 20.1; 2011-326, s. 15(u); 2012-85, s. 8; 2015-241, s. 7A.4(m).)