



CHAPTER 133
ARTICLE 1 - GENERAL PROVISIONS

N.C.G.S. § 133-3.

Specifications to carry competitive items;
substitution of materials.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2024-3, s. 10.1(a) — sixth act in the lineage	21 September 2026, 04:44 UTC	b8d03f9b72e520d7f52d9bd2 - 414bf9f656b0881dbd9798c5 - 6c61039d42f12af6

§ 133-3(a)

All architects, engineers, designers, or drafters, when providing design services, or writing specifications, directly or indirectly, for materials to be used in any city, county or State work, shall specify in their plans the required performance and design characteristics of such materials. However, when it is impossible or impractical to specify the required performance and design characteristics for such materials, then the architect, engineer, designer or drafter may use a brand name specification so long as they cite three or more examples of items of equal design or equivalent design, which would establish an acceptable range for items of equal or equivalent design. The specifications shall state clearly that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Where it is impossible to specify performance and design characteristics for such materials and impossible to cite three or more items due to the fact that there are not that many items of similar or equivalent design in competition, then as many items as are available shall be cited. On all city, county or State works, the maximum interchangeability and compatibility of cited items shall be required. The brand of product used on a city, county or State work shall not limit competitive bidding on future works. Specifications may list one or more preferred brands as an alternate to the base bid in limited circumstances. Specifications containing a preferred brand alternate under this subsection must identify the performance standards that support the preference. Performance standards for the preference must be approved in advance by the owner

in an open meeting. Any alternate approved by the owner shall be approved only where (i) the preferred alternate will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item or items, or both, and (ii) a justification identifying these criteria is made available in writing to the public. Substitution of materials, items, or equipment of equal or equivalent design shall be submitted to the architect or engineer for approval or disapproval; such approval or disapproval shall be made by the architect or engineer prior to the opening of bids. The purpose of this statute is to mandate and encourage free and open competition on public contracts.

§ 133-3(b)

Specifications for the purposes of competitively bidding components, systems, construction services, or maintenance services that relate to elevators pursuant to subsection (a) of this section:

- (1) Shall not list preferred brands as an alternate to the base bid.
- (2) Shall not require a specified time greater than five years that a bidder must have conducted business within this State.
- (3) Shall include the statement, "Cited examples are used only to denote the quality standard of product desired and do not restrict bidders to a specific brand, make, manufacturer or specific name.", when utilizing brand name specification.
- (4) Shall include a reference to G.S. 143-59.

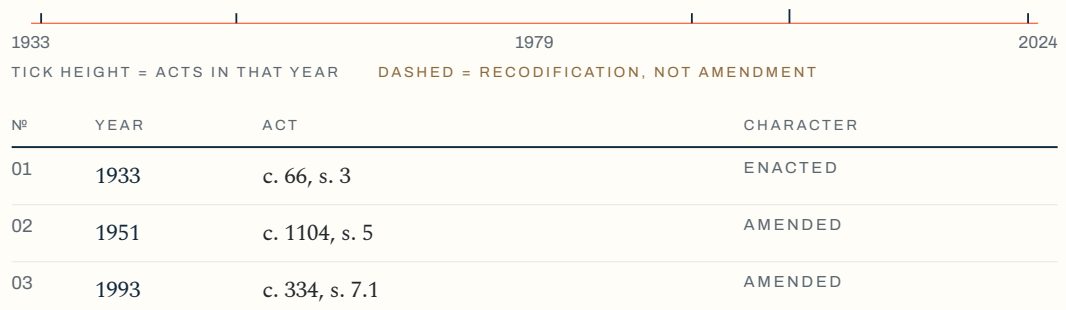
END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
6 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



04	2002	S.L. 2002-107, s. 5	AMENDED
05	2002	S.L. 2002-159, s. 64(c)	AMENDED
06	2024	S.L. 2024-3, s. 10.1(a)	AMENDED

APPARATUS II
1 AUTHORITY

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 143-59	(b)(4)	"Shall include a reference to"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 133-3 (2024).

PINPOINT
N.C. Gen. Stat. § 133-3(a) (2024).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1933, c. 66, s. 3; 1951, c. 1104, s. 5; 1993, c. 334, s. 7.1; 2002-107, s. 5; 2002-159, s. 64(c); 2024-3, s. 10.1(a).)

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