

Construction Law in North Carolina

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Day Laborers & NC's Lowest Responsible Bidder law (News Note)

March 13, 2012 by Melissa Dewey Brumback



Triangle Grading and Paving is a Triad-area company with multiple public contracts, 18 since 2000 from the NC Department of Transportation alone. Frequently the low bidder, Triangle Grading has a long history of performing work for the state. However, a recent [high profile controversy](#) has threatened to remove the company from the bid lists for public construction work. In this past year, the company was fined \$400,000 by U.S. Immigration and Customs Enforcement (ICE). The Burlington-based company has the highest fine in North

Carolina dating back as far as 2009.

As you undoubtedly are well aware, North Carolina law requires that any public construction project requiring an estimated total expenditure of greater than \$500,000 (or an estimated expenditure on supplies and materials greater than \$90,000) be [subject to formal bidding procedures](#). Further, the state or municipality soliciting the bids is required to accept “**the lowest responsible bidder.**” Some of the factors taken into consideration when determining what a responsible bid is includes performance, quality, and time to completion as specified in the bid.

Knowing that the contract must go to the lowest responsible bidder, contractors may be tempted to cut corners by hiring undocumented workers, who work for less pay than their documented counterparts. By hiring such workers, contractors can lower labor costs significantly, making them much more likely to be the bidder who wins the lucrative project.

Immigration fines may not cause Triangle Grading to lose all potential public clients. The DOT has stated that, when conducting the yearly review of its list of contractors, that while “safety records will be considered [...] immigration fines would not be a factor.” However, **Winston-Salem is investigating whether these immigration violations should merit a removal from the bid list.**

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What are your experiences with the requirement of “lowest responsible bidder” on state projects? Are there changes that need to be made to the program? Can the system be gamed? *Post in the comment section, below.*

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