

Procurement Manual

SOUTHWESTERN COMMUNITY COLLEGE

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Introduction

This manual is intended to assist you with your procurement questions as you strive to select equipment, materials, services, supplies, and printing that are necessary for the College to continue to grow and serve the needs of our students.

The College encourages open and fair competition at all levels to ensure the tax payers of the State of North Carolina that their best interests are served. Policies, procedures, and laws that must be taken into consideration even on the smallest of purchases are outlined for quick review. If you have questions regarding any purchase or procedure, please contact the Business Office for guidance.

In the year 2000 the College began using the North Carolina Eprocurement System for submitting purchase order requests to vendors. Vendors must be registered with the State of North Carolina and available through the eprocurement system in order for anyone to requisition equipment, materials, services, supplies or printing. Please encourage your contacts to register with the state to be eligible for future opportunities. Information pertaining to eprocurement and the state's mandate can be found at:
<http://www2.eprocurement.ncgov.com/eprocurement>.

Competition

North Carolina's purchasing program is based on sound competitive purchasing procedures and organized as a centralized purchasing system. The State Purchasing Officer is responsible for all aspects of purchasing commodities and contractual services by agencies, either directly or indirectly.

Competition is the cornerstone around which public contracting is built. In its best form, it is a mirror of a free and open economy. North Carolina's purchasing program is built on the principle of competition. Where it is not sought, or obtained, the reason must be valid and must be documented as part of the public procurement file. The importance of seeking competition exists at all levels of expenditure, not just in those solicitations above benchmarks. Below the benchmarks, the competitive element is just as important and can be sought through some form of competitive solicitation. All College purchasing personnel must maintain an awareness of the need for and value of competition in every procurement action.

The ability to foster competition is a skill required of all College purchasing personnel. Fostering competition is an attitude more than a procedure or mechanism. It is reflected in the way specifications are written, in searching for new sources of supply, in attempting to make procurement documents simple and inviting, and in everyday courteousness shown to prospective suppliers and contractors.

Price should not be considered as the absolute in the competitive arena. The lowest responsive and responsible bid is the benchmark in North Carolina's purchasing program. The lowest responsive and responsible price allows consideration of many factors, such as terms and conditions, delivery schedules and lead times, types and degrees of service required, inspection and testing procedures, transportation and delivery costs, warranties

and guarantees required, and others. The purchaser's responsibility is to evaluate all the factors included in the procurement document to determine the lowest responsive and responsible offer from all offers received.

As purchasers, we are entrusted by the taxpayers of this state to spend the monies allotted us in an efficient and effective manner. To accomplish this we must work jointly to promote and protect the basic fundamentals of fair and open competition upon which our state's purchasing program is built. The integrity of our purchasing program is paramount in maintaining this trust.

Ethics

Ethics and ethical practices are a major concern in the realm of public purchasing today. While laws and rules mesh to provide a mechanism for public purchasing, only people can make it work. In purchasing, as in all fields, there are values of pride and worth, there are standards and ideals, and there are specifics of conduct and performance. Impediments to the process must be detected early and safeguards provided at all levels. This applies both to purchasing personnel and the vendor community.

It becomes imperative, therefore, that all public purchasing personnel be entirely cognizant of the necessity for ethical behavior. It takes only the slightest hint of impropriety to cast doubt on behavior. Sometimes, it may be even more of a perception than an actual event.

Integrity

Fairness and impartiality in all phases of the process are essential ingredients in public purchasing. Dealings with vendors and peers must be open, honest, and objective. Like all service functions, purchasing justification is the quality of the service it renders. The process cannot be both effective and self-serving; the two are incompatible. In the case of public purchasing, utmost fairness is required in expending public funds. The result of favoritism extended to either a user or seller is the same. The practice is not permissible. No matter how strongly a user may prefer a particular product over others, equivalent products must be given every reasonable consideration. We must commit and adhere to fair and open competition. Integrity is a principal stock in trade for the public purchaser. Integrity is manifested by fairness, openness, and impartiality and can be tarnished by even the slightest appearance of impropriety. Once this occurs, it is very difficult to regain.

Conflict of Interest

Employees shall disclose to their respective budget officer, within the administrative area to which they are assigned, any potential conflict of interest of which they are aware related to the purchase of equipment, materials, goods, or services.

Except in very unusual circumstances, the College will not purchase equipment, materials, goods, or services from an employee, a member of an employee's immediate family, or a business in which an employee or a member of an employee's family has an

ownership interest. If an exception is necessary, the area budget officer must submit a written disclosure of the transaction with the purchase requisition.

Responsibility

Any employee responsible for purchases outside the laws of the state of North Carolina shall be subject to disciplinary action by the College or the state of North Carolina. See G.S. 143-51.

Equipment Purchases

Equipment purchases are subject to all College and state procurement guidelines.

When purchasing equipment the end user must coordinate the request with facility services to ensure the proper utilities are in place for the equipment. This may include gas, electricity, water, etc.

Facilities Services will determine if such service now exists or if it is to be installed, the lead time required, and any other procedures that need to be followed. The department making the procurement request should ask that a cost estimate be added to the request to reflect the additional service costs.

End-Of-Year Planning

In order to meet the needs of the entire College, all requests for the current fiscal year should be submitted, approved, and purchased no later than May 1st of the given year. This will allow for delivery and payment during the current fiscal year.

Sole Source Vendors

When an item or service is available from only one known source of supply, the vendor is referred to as a sole source vendor. This will require research and documentation for the procurement file. Please note that if a manufacturer has multiple resellers the item cannot be considered a sole source item. If competition is available it must be sought.

EXAMPLES

The following are examples of sole source vendors:

- A new computer software company sells software that they developed and that can only be purchased from them.
- A piece of equipment the College has breaks down and the required parts and repair service can only be obtained from the one local company authorized by the manufacturer to sell and service in this state/country.

DOCUMENTATION

Any knowledge of or justification for using a “sole source” vendor must be noted on the requisition for consideration by the Business Office. If technical specifications are the justification, note them in detail for comparison to existing products and sources. If possible, attach the following documentation to the requisition:

- sole source letter from manufacturer

- descriptive literature
- photographs
- diagrams
- technical data, etc.

APPROVAL

If the purchase is properly justified, approved, and within the College's local limit of \$10,000, it can be processed without submitting to the N.C. Division of Purchase and Contract.

NOTE: If the purchase exceeds the local limit of \$10,000, it will be forwarded to the N.C. Division of Purchase and Contract with all accompanying data for evaluation. If the purchase is approved, the College will proceed with the order.

Waiver of Competition

Source: NC Office of Information Technology Services,

Statewide Information Technology Procurement Office

WRITING A REQUEST FOR WAIVER OF COMPETITION

One of the basic principles of public purchasing is to obtain competition by soliciting multiple responses whenever possible. However, there are instances when competition may be waived.

WAIVER OF COMPETITION POLICY

Competition for goods and services may be waived under conditions listed in 9 NCAC 6N.0901, and otherwise if deemed to be in the public interest by the SCIO, SPO, President, or his designee.

Requisitions that exceed \$5,000 that are not purchased using a State Term Contract and that are not fully competitive must be accompanied by conclusive documentation (justification for waiver of competition) that explains why the specified product and/or source is singularly able to meet the College's needs and why no other product or source can do so. 9 NCAC 6B.1202(7)

If the procurement is under the delegation of the College, the College may waive competition in conformance with 9 NCAC 6B.0901. If the procurement is over the College's delegation, request for waiver shall be submitted to either the Division of Purchase and Contract or Statewide IT Procurement for appropriate determination. 9 NCAC 6B.0301, 9 NCAC 6B.1104, 01NCAC 05B.1401.

THE JUSTIFICATION

The justification for waiver of competition is not a specific form, and it may be of any length. It is a memo or letter that must be prepared by the requestor to justify the purchase of certain items or services. The memo should be addressed to the Business

Office and should contain a thorough explanation for the request. The specific instances requiring the use of a justification memo are described below.

One or more of the following conditions for waiver of competition, as listed in 09 NCAC 06B.0901, must be used to justify the request:

- where competition is not available;
- where a needed product or service is available from only one source of supply;
- where emergency action is indicated;
- where competition has been solicited but no satisfactory offers received;
- where standardization or compatibility is the overriding consideration;
- where a donation predicates the source of supply;
- where personal or particular professional services are required;
- where a product or service is needed for a person with disabilities and there are overriding considerations for its use;
- where additional products or services are needed to complete an ongoing job or task;
- where a particular product or service is desired for educational, training, experimental, developmental, or research work;
- where equipment is already installed, connected, and in service and it is determined advantageous to purchase it;
- where items are subject to rapid price fluctuation or immediate acceptance;
- where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies that thwarts normal competitive procedures;
- where a purchase is being made and a price is available from a previous contract;
- where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable non-profit organization(s); and • where a used item(s) is available on short notice and subject to prior sale.

CHECKLIST FOR WRITING A REQUEST FOR WAIVER OF COMPETITION

The justification for waiver of competition is prepared for a unique situation; therefore, the information necessary in each is different. Each waiver must be fully documented and the justification must be sent to the procurement office along with the request. Keep in mind that justifications for waiver are written by the College, not the vendor.

Following are some questions that will assist you with writing a justification for waiver of competition.

1. What condition(s) from the IT Procurement Rules are you using as a basis for your justification for waiver of competition? Refer to the conditions for waiver provided by 09 NCAC 06B.0901 and listed on page three of this document.

2. Are the products being procured with grant monies or other funds that restrict how the money is spent (i.e., does the funding source specify that you must purchase a specific brand, etc?)
3. Has your College previously procured this/these product(s) and/or services(s)? If so, provide background information about the purchase. If it was procured through Statewide IT Procurement, provide the previous ITS tracking number (ITS-00XXXX).

4. Brand Specific and Vendor Specific Justifications:

Brand specific rationale can be used only when the requirement can be met by the exact specifications offered by a particular piece of equipment made by the manufacturer. These items are generally more expensive since they often contain additional features that may or may not be needed. Generic specifications encourage competition. They should be used whenever possible. A brand specific justification must explain why the product is singularly able to meet the requirements of the user and conclusively support the determination that no other product can *fulfill the user's needs. 9 NCAC 6B .0201* Vendor specific (sole source) rationale can be used only when the requirement can be met by a unique good or service that is not offered by any other vendor. It is difficult to conclusively document the need for a specific vendor because typically there are many vendors who are capable of supplying the same goods and services.

Is this a brand specific request?

Is this a sole source request?

Provide a detailed justification for requesting brand specific or sole source procurement, including your business requirements, which condition(s) from "09 NCAC 06B.0901" apply, and a detailed explanation as to why the rule(s) apply.

5. Is the waiver for standardization? If yes, provide information on what is currently owned and when these items and/or services were procured. Provide copies of current or past contracts/purchases orders.
6. Will this equipment have to be compatible with any existing equipment that has already been installed? Is this an upgrade to existing equipment? If yes, conclusively explain that the requested brand is the only one which is compatible with the expansions or additions to the equipment.
7. Can you use one or more brands as a basis for comparison while inviting bids for other brands as well? If so, provide your minimum specifications with the request. This will be bid as open market procurement.
8. Provide any other information that is needed for this procurement.

Purchasing Methods

BASIC

When the dollar amount of the expenditure is under the College's delegation, the College is authorized to acquire commodities, printing, and contractual services, by purchase, rent, lease, lease purchase, or installment purchase, subject to the procedures herein.

Once a need is determined by a user at the College, the user should submit a requisition through the College's purchasing office. Every attempt should be made to purchase items that promote environmental sustainability. Except where it is not possible, only recycled paper products should be purchased. The commodity, printing, or contractual service needed will usually fall under one of the categories given below.

- Small Purchases
- Open Market Solicitations
- Statewide Term Contract
- College Specific Term Contract
- Waiver of Competition
- Emergency or Pressing Need
- Correction Preference
- Nonprofit Work Centers for the Blind and the Severely Disabled
- Special Delegation
- Exemptions

SMALL PURCHASES

A small purchase is defined as the purchase of commodities, services, or printing not covered by a term contract, involving an expenditure of public funds of five thousand dollars (\$5,000) or less. When making purchases of less than \$5,000 that are not on state contract, an approved requisition must be submitted to the Purchasing office. The requisition must have a budget code and be signed for budget approval by the department head. To insure competition, a minimum of 3 informal quotes is recommended. A full description of the items, vendor's part numbers, and prices should be on the requisition.

OPEN MARKET SOLICITATIONS

An open market solicitation is for the purchase of a commodity, printing, or service not covered by a term contract. Open market contracts are to be established in accordance with the procedures based on described competitive processes.

TERM CONTRACTS

A "term contract" is a contract intended to cover normal requirements for a commodity, printing, or contractual service for a specified period of time based on predicted usage. It is also referred to sometimes as a "requirements contract" or "indefinite quantity contract." Term contracts are to be established under the procedures of the State of North Carolina.

There are two basic types of term contracts:

- “Statewide term contract” is established by P&C for College use.
- “Agency specific term contract” is established by P&C for use by the College when a commodity, printing, or service is not covered by a statewide term contract, and the contract value exceeds the College’s delegation.

Commodities on statewide term contracts are competitively bid. Some considerations in establishing statewide term contracts are as follows:

- Items most commonly used or purchased by the state;
- Obtain lower prices through volume discounts;
- Transportation costs are included in the pricing;
- For some items, standards have been established and items have been tested;
- Warranties may be included in the contract;
- On-line catalogs are available within E-Procurement for processing efficiency.

Every statewide term contract and College specific term contract has different information pertinent to that specific contract.

READ EACH CONTRACT CAREFULLY PRIOR TO ORDERING.

Most of the statewide term contracts for commodities specify a minimum and maximum quantity (or dollar amount). Orders below the minimum shall be obtained in accordance with College procurement procedures. Orders that exceed the maximum quantity must be forwarded to P&C for processing by the Business Office. For needs that exceed the maximum, P&C will determine if the order should be placed with the contractor at the contract price, negotiate the price with the contractor, or solicit new offers for the requirement.

Emergency and Pressing Needs.

The College may make purchases of commodities, printing, or services in the open market in cases of emergency or pressing need. For this purpose, a pressing need is one arising from unforeseen causes, including but not limited to delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work. Emergencies are defined as situations which endanger lives, property, or the continuation of a vital program and which can be rectified only by immediate, on-the-spot purchases or rental of commodities, printing, or services. The College may negotiate with a potential vendor(s) in an effort to acquire the quality of commodity, service, or printing needed at the best possible price, delivery, terms, and conditions. A solicitation document requesting or inviting an offer(s) shall be issued, including standard language and terms and conditions issued by P&C. In instances where there is a question regarding terms and conditions, contact P&C.

When emergency or pressing need action is necessary, and the expenditure is over the College’s delegation, prior approval shall be obtained from P&C if time permits. If the expenditure is over \$10,000, an explanation of the emergency or pressing need purchase

shall be reported in writing to P&C. P&C shall report such purchases of commodities and printing to the Board of Award as a matter of record.

Preferences

NONPROFIT WORK CENTERS FOR THE BLIND AND THE SEVERELY DISABLED

Agencies may purchase goods and services directly from a nonprofit work center for the blind and severely disabled as long as:

- The purchase of goods does not exceed the College delegation, and
- The goods or services are not available under a term contract, and
- The goods or services are of suitable price and quality, as determined by the College.
- Competition is not required when making a purchase from a nonprofit work center for the blind and severely disabled. Nonprofit work centers for the blind and severely disabled may still submit offers for contracts.

DEPARTMENT OF CORRECTION

North Carolina has a preference statute (G.S. 148-70) that controls the sale of prison industry products and prohibits their sale to the private sector. All agencies shall give preference to Department of Correction products in purchasing articles, products, and commodities which are needed and which are manufactured or produced within the State prison system and offered for sale to them by the Department of Correction. This preference requirement also applies to all commodities (except printing). Delegation limits do not apply to products purchased from Correction Enterprises.

Products available from the private sector and also offered by Correction Enterprises, including those on term contracts, shall be purchased from the private sector only when it is determined that the Correction Enterprises product will not satisfy the requirement or will not be available when needed. The purchase file should contain documentation from Correction Enterprises stating that the item(s) cannot be supplied. Competitive bidding shall not apply to articles or commodities available from Correction Enterprises. Correction Enterprises is required to keep the price of products substantially in accord with that paid by governmental agencies for similar products of equivalent quality.

PROCEDURES AND RECORDS

Except where a waiver, small purchase, special delegation, exemption, or emergency or pressing need is permitted by rule, all purchases involving the expenditure of public funds made by the College for those commodities, services, and printing, not covered by statewide term contracts shall comply with the following delegations and procedures. The two exceptions to this are when the College buys from either the Department of Correction or from a Nonprofit Work Center for the Blind and the Severely Disabled (See Section V, "Purchasing Methods").

For purchases made by the College involving an expenditure of public funds over \$5,000, up to the general delegation limit:

- Competition shall be solicited;

- Solicitation documents requesting or inviting offers shall be issued; and
- Solicitation documents shall include standard language, including terms and conditions issued by P&C, unless prior written approval is obtained from P&C. If additional terms and conditions are used, they shall not conflict with P&C's standard terms and conditions, unless prior written approval is obtained from the SPO.

E-quote or IPS may be used for solicitations below \$10,000.

In addition, the College shall advertise their solicitations on Purchase and Contract's Interactive Purchasing System (IPS) via the internet for the following purchases: a. Any purchase that exceeds the formal threshold of \$10,000 or greater. b. Purchases under \$10,000 if it is determined that a larger base of competition is needed. c. Purchases that require competition for services, construction, consulting, instruction, goods and materials that require special consideration.

The awarding of all contracts under the College's delegation shall be the responsibility of the College's Business Office. Awards that exceed the college's delegation shall be awarded by the appropriate state agency in conjunction with the College's recommendation.

PROCEDURES

Where the total requirements for commodities, services, or printing jobs involve an expenditure of public funds in excess of the College's general delegation, the competitive bidding procedure as defined in G.S. 143-52 shall be utilized as follows:

- Sealed offers for commodities shall be solicited by P&C via advertisement For service contracts handled by the College, the College shall prepare a task description of the services and desired results. Task descriptions shall contain all of the following:
 - The date(s) of service (The contract shall not be for more than three years including extensions and renewals, without the prior approval of P&C.);
 - Detailed specifications or scope of work required;
 - What the College shall furnish;
 - What the contractor shall furnish;
 - The method, schedule, and procedures for billing and payments; and
 - Other subject matters bearing on the conduct of the work.

FILE MAINTENANCE / DOCUMENTATION

All purchasing records shall be maintained for a period of five years after the expiration date of the contract. Each file shall be identified individually so it can be readily located and referenced either through the NC E-procurement @ Your Service system or hard copy files.

All purchase transactions shall be documented, with each file containing, as applicable, the following:

- Original offers if in writing, or written documentation of verbal offers received;
- Reasons for award or cancellation;

- Worksheets/evaluations;
- Vendor list, if used;
- Written justification for waiver or emergency purchase;
- Tabulation of offers received;
- Copy of purchase order(s);
- Related correspondence;
- Reason(s) for receiving only one offer in response to a solicitation;
- Negotiated contracts; and reasons for not accepting technical proposals. After award of contract, all material in the file, except confidential information, shall be public record.

Purchasing Benchmarks

REQUIREMENTS FOR BIDS AND QUOTES

Quotation: A written document provided by a vendor that clearly lists the cost of item, delivery charges, tax, and terms and conditions. The College requires a minimum of 3 written quotes when amount exceeds \$5000.

Bid: A written, formal, sealed response to a request submitted by the College or state through the State of NC Interactive Purchasing System. Bids are formally solicited when amount exceeds \$10,000.

When creating specifications for bid documents the requestor must be very clear in their requirements. In order for a requirement to be mandatory, the terms “**shall,**” “**must,**” and “**will**” should be used. Failure to meet these requirements in a proposal may be grounds for disqualification of the proposal and deem the proposal nonresponsive. The following templates are used for soliciting formal responses:

RFP: Request for Proposal

RFQ: Request for Quotes

IFP: Invitation for Proposal

IFB: Invitation for Bid

The Business Office shall determine whether quotations, proposals, or bids meet all specifications outlined in the documents submitted.

The College encourages competition at all levels, regardless of dollar amount.

Competition Dollar amounts

Purchase of equipment, goods, supplies, and services are subject to the following requirements:

Dollar Amount

\$1 to \$5,000

\$5,001 to \$10,000

\$10,000 and over

Budget Manager Action

Minimum of 3 informal quotes recommended.

Minimum of 3 written quotes required.

Business Office issues formal bids through State IP system and requires Board of Award approval.

\$ 25,000 and over

Business Office issues formal bids through Statewide Division of IT and requires Board of Award approval for IT equipment.

Miscellaneous Rules

SEEKING COMPETITION

Recall of Offers

Offers may be recalled prior to opening upon signed request from an authorized agent of the offeror.

E-Mail, Facsimile, and Telephone Offers

E-mail, facsimile, and telephone offers shall not be accepted in response to solicitations that are required to be sealed. Sealed offers are required formal procurement solicitations.

Public Openings

Advertised procurements shall be publicly opened at the time, date, and place identified in the solicitation document. At the time of opening, the names of the companies, the manufacturer(s) and catalog number(s) of the item(s) offered, and the prices, deliveries, and payment terms submitted shall be tabulated, and this tabulation shall become public record, except as provided below. Under a two-step process the cost proposal(s) shall not become public record until the technical offer(s) has been evaluated (first step) and then only those determined by the College which issued the solicitation document to have an acceptable technical offer shall have their cost proposal opened (second step). Cost proposals from those offerors whose technical proposals have been deemed acceptable shall be publicly opened, and the offeror(s) with the acceptable technical offer(s) notified of the time and place for the opening. At least two (2) College working days notice shall be given prior to the opening. In addition, there shall be at least two College employees present at the opening.

The cost proposals from offerors whose technical offers were deemed unacceptable shall remain unopened.

LATE OFFERS, MODIFICATIONS, OR WITHDRAWALS

It is the sole responsibility of the offeror to have their offer delivered on time, regardless of the mode of delivery used, including the U.S. Postal Service or any other delivery services available.

No late offer or late modification shall be considered unless received prior to the bid opening, unless the offeror modification would have been timely except for the action or inaction of College personnel directly involved in the procurement process. Withdrawals will not be considered unless received prior to contract award. Purchasers shall review

the reasons for any withdrawal request to ensure that allowing withdrawal would not compromise the procurement process.

MANDATORY CONFERENCES/SITE VISITS

Mandatory site visits are a requirement that potential offerors must visit the premises where requirements will be used or installed to become familiar with site conditions. Site visits can be mandatory or non-mandatory. Mandatory site visits may restrict competition in that, unless an offeror attends the site visit, that offeror's bid will not be accepted. Pre-proposal or pre-bid conferences are held with potential offerors prior to solicitation of offers to clarify any ambiguities, answer offeror's questions, and ensure that all offerors have a basic understanding of the solicitation requirements.

It is recommended the College urge and caution potential offerors to attend scheduled conferences or site visits rather than making them mandatory. When a solicitation requires potential offerors to attend a conference or site visit (mandatory or non-mandatory), the date, time, location, and other pertinent details of the conference or site visit shall be given in the solicitation document and in the advertisement (if required by rule).

If only one potential offeror attends the mandatory conference or mandatory site visit, the conference or site visit may continue to be conducted, but the solicitation shall be canceled immediately following the conference or site visit. If this occurs, the College shall investigate why only one potential offeror was in attendance and ascertain if there is any competition available. If it is determined that competition is available, the College shall again attempt to obtain competition, unless otherwise permitted by rule. If it is determined that there is no competition available, then the procurement may be handled as a waiver as permitted by rule.

Any and all questions by an offeror regarding a solicitation document shall be addressed to the purchaser named on the document. Any and all revisions to the solicitation document shall be made only by written addendum from the purchaser. Verbal communications are not binding.

Evaluations

ERRORS/ CLARIFICATIONS

When an offer appears to contain an obvious error or otherwise where an error is suspected, the circumstances may be investigated and then be considered and acted upon. Any action taken shall not prejudice the rights of the public or other offering companies. Where offers are submitted substantially in accordance with the procurement document but are not entirely clear as to intent or to some particular fact or where there are other ambiguities, clarification may be sought and accepted provided that, in doing so, no change is permitted in prices. The purpose of seeking clarification is to clarify existing information, not to allow additional information to be added.

EXTENSION OF ACCEPTANCE TIME

When in the public interest, vendors may be requested to extend the time designated for the acceptance of offers.

EVALUATIONS

In determining the award of contracts, bona fide offers shall be considered and evaluated as provided by statute and applicable rules. The evaluation criteria to be used in determining the award of contract shall be identified in the solicitation document. An unexecuted (unsigned) offer or an offer without a delivery time shall be rejected. During the period of evaluation and prior to award, only the information provided in the tabulation is public record. Possession of offers, including any accompanying information submitted with the offers, shall be limited to persons in the College who are responsible for processing and evaluating the offers and accompanying information. Offeror participation in the evaluation process shall not be permitted. Any communication with an offeror that may be necessary for purpose of clarification of its offer shall be conducted by the College which issued the solicitation document. After award of the contract or when the need for the item or service is canceled, the complete file shall be available to any interested party with the exception of trade secrets subject to the Rules on Confidentiality.

Basis for Rejection

In soliciting offers, any and all offers received may be rejected in whole or in part. Basis for rejections shall include but not be limited to the following:

- The offer being deemed unsatisfactory as to quantity, quality, delivery, price, or service offered;
- The offer not complying with conditions of the solicitation document or with the intent of the proposed contract;
- Lack of competitiveness by reason of collusion or knowledge that reasonably available competition was not received;
- Error in specifications or indication that revision would be to the State's advantage;
- Cancellation or changes in the intended project or other determination that the proposed requirement is no longer needed;
- Limitation or lack of available funds;
- Circumstances which prevent determination of the lowest responsible or most advantageous offer;
- Any determination that rejection would be to the best interest of the State.

LACK OF COMPETITION

The purpose of soliciting offers is both to seek and obtain competition; the responsibility is dual. Where only a single offer or a single acceptable offer is received or where reasonable and available competition is not obtained, **the reason shall be ascertained and made a matter of record.**

INSPECTION AND TESTING

In general, it is the responsibility of the College to inspect all materials, supplies, and equipment upon delivery to ensure compliance with the contract requirements and specifications. However, when the contract requires an inspection by P&C, it shall be conducted by a designee of P&C.

P&C may re-inspect any item or service performed and reverse the College decision when justified. P&C may periodically inspect any items to ensure that specifications are met. The College must ensure that items and services purchased comply with applicable codes, statutes, local ordinances, policies, or safety requirements. Where products delivered fail to meet the specifications or contract requirements, the discrepancy shall be handled by the College.

When samples are required in response to a solicitation document issued by P&C, then P&C will review those samples and test as appropriate. Samples shall not be sent directly to laboratories outside P&C or the College unless authorized in writing by P&C.

After an inspection and when it is determined to be advantageous, the College may authorize revisions to a contract specification, including any cost adjustment associated with any such revision, as part of contract administration. If an increase in cost results in the total contract value being more than a College's delegation, then prior approval from P&C is required.

For items requiring inspection by a P&C Quality Acceptance Representative, visit <http://www.doa.state.nc.us/PandC/gcinsp1.htm>. This list identifies only those items that routinely need an acceptance inspection by the Quality Acceptance Representative PRIOR to release of final payment.

PARTIAL AND MULTIPLE AWARDS

Partial, progressive, or multiple awards may be made by reason of insufficient funds, legislative mandates, where it is advantageous to award separately by items, or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service(s) or geographical areas.

Notwithstanding the necessity for awards to more than one supplier in the case of some term contracts, such awards shall be limited to the number of suppliers deemed necessary to reasonably satisfy the intended requirements. Extreme care shall be exercised to protect the character and principals of competition.

Quantities shall not be divided among vendors on definite quantity requirements unless and except as provided in the solicitation document.

RECIPROCAL PREFERENCE

Reciprocal preference is a preference applied against a bidder whose home jurisdiction has preferences. North Carolina General Statute 143-59(b) requires all departments, institutions, and agencies of the State to consider other states' preferences when evaluating bids. For the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued over \$25,000.00, a percent of increase shall be added to a bid of a non-resident bidder that is equal to the percent of

increase, if any, that the state in which the bidder is a resident adds to bids from bidders who do not reside in that State.

For more information and the list of other states' preferences refer to:
<http://www.doa.state.nc.us/PandC/rplaw.htm>.

PURCHASES FOR PERSONS WITH DISABILITIES

Agencies shall include special provisions for the purchase of goods and services when such provisions are necessary to meet the documented training, work, or independent living needs of persons with disabilities according to the requirements of the Rehabilitation Act of 1973, as amended, and the American with Disabilities Act, as amended. These special provisions shall provide for the following:

- The involvement of the individual in the choice of particular goods, service providers, and methods used to provide the goods and services;
 - The flexibility necessary to meet those varying needs of individuals that are related to their disabilities;
 - The purchase outside of certified sources of supply and the waiving of competition when a single source can provide multiple pieces of equipment, including adaptive equipment, that are more compatible with each other than they would be if purchased from multiple vendors;
 - Give priority consideration to suppliers offering the earliest possible delivery date of goods or services especially when a time factor is crucial to the individual's ability to secure a job, meet the probationary training periods of employment, continue to meet job requirements, or avoid residential placement in an institutional setting; and
 - Consider the convenience of the provider's location for the individual with the disability.
- The following criteria shall also be considered:
- Cost-effectiveness;
 - Quality;
 - The provider's general reputation and performance capabilities;
 - Substantial conformity with specifications and other conditions set forth for these purchases;
 - The suitability of the goods or services for the intended use;
 - The personal or other related services needed;
 - Transportation charges;
 - Any other factors pertinent to the purchase.

Special Provisions

PURCHASE OF USED ITEMS

If it appears that the acquisition of used equipment, materials or supplies is in the public interest, competitive procedures shall be followed wherever feasible. When a used item is available on short notice or is needed for the disabled, refer to Section V, "Purchasing Methods," in this manual, whereby a waiver of competition or emergency action may be justified.

The solicitation document may or may not include a request for prices on like new products, but in either case acquisition may be made on the basis of that which is considered most advantageous for the intended purpose. Confirmation should be made that the price of the used equipment is reasonable with respect to its age, condition, and the price of new equipment, and should be included in the permanent file.

AUCTIONS

All commodities covered by term contracts must be purchased from those contracts.

If buying at auction an item that is not covered by a term contract, and the dollar amount is under the College's delegation, then the executive officer of the College may authorize such action.

If the dollar expenditure will be over the College's delegation, then prior approval must be obtained from the SPO, unless it is for an emergency or pressing need, which the purchase would then be governed by the Rule applying to Emergencies and Pressing Needs.

ARTICLES FOR SPECIAL PURPOSES

Where articles are to be used for educational or training purposes by disabled persons, or for test and evaluation or research purposes, special or overriding consideration may be given to the factor of suitability in the preparation of specifications, the evaluation of offers, for waiver of competition, and the award of contracts.

Various Purchases

PURCHASES FOR ACROSS-THE-COUNTER RESALE

Purchases of items for "across-the-counter" resale are not handled through P&C. However, all purchases of items for use by the College, even if channeled through bookstores or other internal supply sources, including stockrooms and warehouses, are to be in accordance with the rules adopted in this manual.

PURCHASING FROM OR THROUGH A STATE EMPLOYEE

Every reasonable effort shall be made to avoid making purchases from or through employees of the College. Prior written approval from the Executive Vice President (EVP) is required in instances which may potentially involve doing business with such personnel. In deciding whether to grant approval, the EVP shall consider the type item or service needed, the prevailing market conditions, whether competition is available, the cost involved, and the effects of doing business with the employee.

USE OF PURCHASING POWER FOR PRIVATE GAIN

The purchasing power of the State or the College shall not be used for private advantage or gain. Purchases under contracts made by the State or the College, except those in accordance with G.S. 143-58.1, shall not be allowed for personal use out of private funds, nor shall the College place orders for articles for ownership by employees or other individuals.

In accordance with G.S. 143-58.1, this prohibition shall not apply if:

- The agency through which the property or services are procured had theretofore established policies and procedures permitting such purchases or procurement by a class or classes of persons in order to provide for the mutual benefit of such persons and the College involved, or the public benefit or convenience; and
- Such policies and procedures, including any reimbursement policies, are complied with by the person permitted thereunder to use the purchasing or procurement procedures.

COOPERATIVE PURCHASING

The College does not belong to or participate in cooperative purchasing agreements unless approved by the State Purchasing Officer. Under purchasing flexibility guidelines the College is permitted to use the information received from a participating vendor to promote and seek competitive resources. However, the College will not enroll into membership with any cooperative purchasing organization nor will the College allow the use of its name to promote such an organization.

Printing

Although competition is not required for purchases less than \$5,000, endusers are encouraged to solicit competition due to the competitive nature of print jobs.

Printing specifications should include:

- **Item** (what it is...report, form, brochure, book, etc.)
- **Quantity** (how many you want; whether you will accept overruns...if so, percentage that will be accepted and guaranteed for payment.) Industry standard is +/- 10%.
- **Size** (number of pages, finished page size, number of parts to the form, etc.)
- **Construction** (how it is made...folds, binding, carbon, interleaf, etc.)
- **Copy** (what is in the item...text, photos, line drawing; how is it given to the printer...manuscript, cameraready copy, boards, photos, negatives, slides, diskettes; size; language; format; etc.)
- **Printing** (what should the item look like...number of ink colors, halftones, separations, bleeds, screens, foil stamping, embossing, etc.)
- **Proofs** (what kind, if any, you want to see... page, blueline, composite, progressive color, color key, etc.)
- **Stock** (what surface the ink is to be put on...kind/grade of text and cover, vinyl, cardboard, etc.)

- **Samples** (an ample number of the previous job should be sent to include with the solicitation.)
- **Packaging** (how the item should be packaged when you receive it; any unusual or special packaging instructions.)
- Special Instructions (be specific.)
- **Delivery** (when the project will be ready to be given to the printer, when you would like to have the item, when you must have the item, where it should be delivered. Specify that vendor delivery is FOB Destination.)

COST OF PUBLIC DOCUMENTS

Every state agency publishing a public document, other than one published for the principal purpose of sale to the public, shall cause the following statement to be printed adjacent to the identification of the agency responsible for the publication:

“(Number of copies) copies of this public document were printed at a cost of \$_____, or \$_____ per copy.”

The term “cost” shall include printing costs in the form of labor and materials and any other identifiable design, typesetting, and binding costs.

Any public document without a statement of cost shall not be mailed or distributed at public expense.

See section VII-4 at <http://www.doa.state.nc.us/PandC/agpurman.htm> which shows that Community Colleges do not have to follow P&C rules for printing purchases.

Advertising for Formal Solicitations

The College must advertise bids for purchases of commodities greater than \$10,000. Advertising is accomplished via posting to the State Purchase and Contract web-site or via local advertisement methods. In addition, Southwestern may advertise non-required quotes on the P&C web-site but must follow P&C rules. To view the State Purchase & Contract Purchase Manual go to <http://www.doa.state.nc.us/PandC/advertis.pdf>. The Business Office is responsible for all advertising placed on the IPS system.

PROCUREMENT OF ADVERTISING MATERIALS

All advertising purchases shall be approved prior to submitting a requisition by the College’s Public Relations Director. Advertising is subject to College and state policy.

Protest Procedures

A party wanting to protest a contract awarded to a solicitation must submit a written request to the College Business Manager. This request must be received by the College within thirty (30) consecutive calendar days from the date of the contract award, and

must contain specific sound reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those contracts actually awarded and not to every person or firm responding to a solicitation.

CONSTRUCTION VERSUS STANDARD PURCHASING

The College shall review the items being included in a construction/renovation project and remove any items that they consider non-related to the actual construction/renovation of the building. Items that are considered commodities, or just furnishings, to complete the project for use, shall be handled in accordance with the normal purchasing rules. Items that are usually removed from construction/renovation projects include office panel systems, food service equipment, and furniture. If the College determines that one of these items, or any item that is normally handled as a commodity purchase, is best suited for inclusion in the construction/renovation project, their justification shall be documented in writing for public record.

REQUIRED REPORTING

- Historically Underutilized Business Report – Quarterly
 - Due Nov 1, Feb 1, May 1, and Aug 1.
(<http://www.doa.state.nc.us/hub/>)
- Purchasing Flexibility Report – Semi-Annually – Due Feb 1 and Aug 1.
- Conflict of Interest Form – Annually
- Recycle Report – Annually – Due Nov 15
(<http://www.p2pays.org/stag/>)

MAINTENANCE AND SERVICE CONTRACTS

1. End User will identify all Service and Maintenance Contracts used by his/her Department. Typically, a blanket PO is prepared annually for services supported by a contract.
2. Notify the Purchasing Department of all Service and Maintenance arrangements, regardless of whether WTCC has a copy of the signed contract on file. 3. The Business Office will contact Vendor to obtain Vendor Contract (signed and dated by the vendor). Any contract supplied by the vendor must contain the following statement: “The attached North Carolina General Contract Terms & Conditions are considered part of this agreement and supersede vendor terms and conditions.”
4. End User reviews the Vendor Contract for accuracy; e.g., Is WTCC still using the services provided in the contract? Is the equipment listed under the maintenance agreement still used by WTCC? Does the Vendor’s current year invoice bill us the amount stated (agreed upon) in the Vendor Contract?
5. End User will forward a copy of the Contract and Requisition to Purchasing for processing. The Contract will be held in the Service and Maintenance Contract File. Retain a copy of the Vendor Contract for your files. Purchasing will not process requisitions unless a Contract is on file in the Purchasing Office.

6. Business Office signs Vendor Contract on behalf of Southwestern and forwards signed copy to vendor along with official Purchase Order. Remember, Purchasing must review ALL contracts before they are signed. 7. Requisitions for Service/Maintenance Contracts, including software support, should be coded to the Department benefiting from the service. Budget to cover the expenditure will need to be identified and transferred to cover the cost.

8. Purchasing verifies that a Vendor Contract is on file in the Purchasing Department before processing the Requisition.

9. Periodically, Purchasing will distribute the Service and Maintenance Contract Inventory List to End Users.

End Users may find the list useful for the following:

- Annual Purchase Order preparation process. • To identify expiring contracts and possibly seek another vendor for service, if applicable.
- Identify aged contracts that need to be updated (many contracts automatically renew; however, these contracts should be updated, at minimum, every 3 years.
- Avoid unnecessary repair costs for assets covered under maintenance contracts.

10. Business and Finance will use the Inventory List to perform the following:

- Identify opportunity for cost savings (volume discounts) where multiple departments may be using the same vendor.
- Calculate Prepaid Expenses.
- Comply with accounting standards, which require a copy of the Contracts be on file to support expenditures.

11. End User should notify Purchasing in writing if dissatisfied with service for any reason. Many of these contracts require up to 90 days advance written termination notices.

The instructor or staff member requesting supplies and equipment will receive a “receiving copy” of the complete purchase order at the time the order is delivered to the end user. When the material is delivered to an office other than the Receiving Department or picked up by someone on your staff the end user must notify the Receiving Department of this before payment will be made to the vendor. If an item is broken when received, or if an item is back ordered, please advise the Business Office.

Technology Orders

Technology Related Orders

In order to ensure compatibility and interoperability of college computers, software, servers, phones and networks, the Information Services department should be involved in the procurement of all technology related purchases. The following guidelines must be followed:

1. Information Services will act as consultants for the purchase of all technology related hardware and software purchases.
2. Purchases of software must be coordinated through Information Services for the purpose of centrally maintaining software licenses and installation media.
3. All computer desktops, laptops, and printers must be approved and submitted for purchase by the Information Services department. This will help maintain compatibility and interoperability of equipment as well as allow us to take advantage of volume pricing.
4. All computer peripherals must be approved by Information Services and routed through the college's purchasing department. This includes monitors, desktop printers, scanners, webcams, and other computer peripherals.
5. Any equipment which is intended to be connected to the college network must be reviewed and approved by the Information Services department prior to purchase.
6. The procurement of any web related services including software as a service (SAAS) purchases must be reviewed and approved by the Information Services department.

Historically Underutilized Businesses (HUBs)

A Historically Underutilized Business is a business which is majority owned or managed by one or more minority persons, women, or disabled persons. Southwestern's objective is to increase the College's expenditures for the purchase of goods and services from HUB vendors to a goal of at least 10 percent while maintaining the integrity of sound financial practices and complying with state purchasing and contracting laws and policies. Please consider HUB vendors in all of your purchases. You may locate HUB vendors at the Purchase and Contract's website:

<http://www.ips.state.nc.us/ips/Vendor/srchven.asp>.

Professional Service Agreements

In the event you need to contract with a non-employee for professional services, please adhere to the following basic procedures:

1. Be certain the individual or company should be treated as an independent contractor, rather than an employee. It is rare that the College would contract with an individual to teach. The IRS has very definitive guidelines determining when someone should be treated as an employee versus an independent contractor. The College is subject to fines and penalties when someone who should be classified as an employee is treated as an independent. If in doubt, consult with the Finance Office before entering into a contract.
2. Complete the required paperwork before the engagement begins.
 - (a) The College-approved Professional Services Agreement form should be completed and signed prior to creating the requisition.
 - (b) Purchasing reviews to determine the status of the contractor. Should the contractor be considered an independent or an employee?

- © If it is determined that the contractor is an independent, then a Vendor Registration Form must be completed if the College has not previously contracted with the individual or company.
 - (d) If it is determined that the contractor should be considered an employee, the requisitioner will contact the Accounting Manager.
 - (e) Certain out-of-state (non-resident) vendors are subject to a 4% state income tax. Please consult with Finance where applicable to make this determination and advise the consultant beforehand of this withholding requirement.
3. Purchasing will issue a purchase order if the contractor is an independent.
 4. You must request an invoice from the independent contractor upon completion of the work. Once the work is completed satisfactorily, the invoice should be approved for payment and forward to Accounts Payable and a copy with the receiving copy should be sent to the Business Office. The original PSA, purchase order and approved invoice will be matched up and payment processed.

Emergency Purchases

SPECIAL CIRCUMSTANCES EMERGENCY/PRESSING NEED PURCHASES

There are some instances that require making a FAST purchase – without waiting for a requisition to make its way through the purchase order process. The State defines these types of purchases to be Emergency Purchases or Pressing Need Purchases.

Emergency: A situation which endangers lives, property, or the continuation of a vital program and which can be rectified only by immediate, on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services.

Pressing Need: A need arising from unforeseen causes including but not limited to delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work, and which can be rectified only by immediate, on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services.

The State allows agencies to make FAST emergency purchases if the following procedure is followed:

1. FAST purchases have to be authorized by the Southwestern Purchasing Department. Call the Southwestern Purchasing Department for a verbal emergency purchase order number **BEFORE making the purchase.**
2. FAST purchases should receive prior approval from the department budget manager by the requisitioner.
3. FAST purchases, after the purchase, still have to be channeled through the requisition process.
4. FAST purchases must be documented on the face of the requisition, by the requisitioner, as to why this purchase was considered an emergency or pressing need purchase.

5. ALL RECEIPTS, invoices, and packing slips must be attached to the requisition.

NOTE: Anyone making a FAST purchase can be held PERSONALLY LIABLE for the cost of said purchase.

The Southwestern Purchasing Department can refuse to process any questionable FAST request. The Southwestern Purchasing Department can refuse to process for payment any questionable follow-up requisition or payment request. The State Auditor can refuse the use of state, county, and special funds for FAST purchase, after-the-fact, requiring the requisitioner to “pay back” the institution.

For more details, see Section V-5 at <http://www.doa.state.nc.us/PandC/agpurman.htm> .

Equipment Repairs

When equipment needs to be repaired, please first make certain it is not covered under a service/maintenance contract. If the repair work needs to be contracted out, simply prepare a work order and a requisition and forward it to Purchasing. If the repair constitutes an emergency, please refer to the section of this memo labeled “emergency purchases.”

BLANKET PURCHASE ORDERS

The procedure for blankets will be as follows:

1. All blankets must have a start date and an expiration date. That date will be 7/1/XX thru 5/1/XX. This coincides with the time period that Southwestern begins to wind down purchases for the year. If, after reviewing your orders in March, blankets need to be extended until June 30, simply send an email to the Purchasing Department with the relevant information.
2. In the past, two, three or even four blanket purchase orders may have been issued for the same department to the same vendor over the course of the year. Since blanket orders will now be issued to cover 10 months, you should determine the dollar amount needed for the 10-month period. See quote and bid delegations to determine procurement method and what documentation is required.
3. All blankets should list names of employees eligible to make purchases from the blanket.

Modular Buildings

The Division of Purchase and Contract, the Office of State Construction, and the Department of Community Colleges have worked in conjunction with one another to establish procedures for the purchase of modular buildings. Please contact the Business Office if you are interested in procuring a modular building.

Confidentiality

All information and documentation relative to the development of a contractual document for a proposed procurement or contract shall be deemed confidential in nature, except as deemed necessary by the purchaser to develop a complete contractual document. Such material shall remain confidential until the award of the contract. This includes all information and documentation relative to the development of a specification until the adoption of that specification or an award of contract if developed for a specific procurement or contract, whichever is later. During the period of evaluating offers and prior to award, only the information provided in the tabulation is public record.

Possessions of offers, including any accompanying information submitted with the offers, shall be limited to persons in the College who are responsible for handling the offers and accompanying information and to others determined necessary by the College for the purpose of evaluation and award of contract. Offeror participation in the evaluation process shall not be permitted. Any communication with an offeror that may be necessary for purpose of clarification of its offer shall be conducted by the Business Office. Once the award is issued or the service is canceled the complete file shall be available to any interested party with the exception of trade secrets, subject to the following rule:

To promote maximum competition and to protect the public competitive procedure from being used to obtain information which would normally not be available otherwise, agencies may maintain the confidentiality of certain types of information. Such information includes trade secrets, as determined by NC law, and like information as the SPO or the College's executive officer or the officer's designee may determine to ensure the integrity of the public purchasing process. Trade secrets which the offeror does not wish to disclose shall be identified as follows: Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL." Cost information shall not be deemed confidential.

Fund Source

Regardless of the fund source used, all purchasing guidelines and procedures must be followed.

North Carolina Products

Executive Order No. 50, Enhanced Purchasing Opportunities for North Carolina Businesses provides a price-matching preference to North Carolina resident bidders on contracts for the purchase of goods. This preference allows a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) of the nonresident bidder's price.

