

NORTH CAROLINA
DEPARTMENT OF COMMERCE
PURCHASING MANUAL
POLICIES AND PROCEDURE
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INTRODUCTION

This manual is provided as an official guide to all agencies, divisions, commissions and other organizational entities of the Department of Commerce for the procurement and handling of supplies, materials, equipment and services as directed by the General Statutes of the State of North Carolina and the Department of Administration.

Many of the policies and procedures in this manual have been formulated during the past years and have been effectively developed and implemented with the cooperation and support of the staff of the Department of Commerce.

We trust you will make use of this manual and request you contact the Departmental Purchasing Section if your specific question is not covered. Suggestions for changes will be welcomed.

As purchasing policies or procedures change, these modifications will be posted on the Intranet at www.commerce.state.nc.us/infocenter under the heading Standards and Policies.

It is important to understand the primary functions of our Departmental Purchasing Section and that the full authority of this office is extended herein to insure that all policies and procedures are met. The Departmental Purchasing Section has two primary functions and they are:

1. To serve divisions, agencies, boards and commissions within the Department of Commerce in securing supplies, materials, equipment and services.
2. To assume responsibility for compliance with law and policy established by the North Carolina General Assembly, specifically G. S. 143-48 to 64 inclusive and to assume that purchases made are properly authorized and result in proper quality goods or services being delivered to the designated locations at the proper time, in the right quantity for proper usage and the best possible cost.

PURCHASE AUTHORIZATION

DEPARTMENTAL FUNDS

The Department operates on the principle of Legislative approved budgetary codes and subheads to the various agencies and divisions. The administrative head of each facility is responsible for expenditures from the budgeted account.

The authority to make purchases from the approved departmental budgets for services or materials is furnished to the Purchasing Section by the signature of the agency head or his designee, as "authorized signature" on an agency requisition.

If the agency head wishes to designate the "authorized signature" to a staff member, then he must submit written notification to the Departmental Purchasing Section with designee's signature affixed.

UNAUTHORIZED PURCHASES

Under the authority delegated to the Department of Commerce by the State of North Carolina, Department of Administration, Division of Purchase and Contract, and in compliance with the provisions of the General Statutes of the State, and further, under authority delegated by the Secretary of the Department of Commerce, the Administrative Purchasing Section has the exclusive responsibility for making all purchase contracts entered into for the Department. This authority covers all supplies, materials and services, such as, but not restricted to, printing, equipment, supplies, surveys, consultants, etc.

Purchases charged against Departmental funds that are not made in accordance with policies as stated in this manual will be the personal responsibility of the individual placing the order, as the Department will not assume any financial responsibility.

PURCHASES FOR PERSONAL USE OF EMPLOYEES

State and Departmental policy prohibits the Purchasing Section from entering into any purchase agreements for employees. All materials purchased by the Department on official Purchase Orders remain the property of the State until consumed or disposed of by public sale through surplus property procedures.

Exceptions to this policy are items purchased explicitly for retail sales. All Purchase Orders issued by the Departmental Purchasing Section must be for official use by the Department

RESPONSIBILITY FOR SUPPLIES AND EQUIPMENT AFTER PURCHASE

The administrative head of an agency, board, division or commission is accountable to the Departmental Secretary for all supplies, materials and equipment purchased in the Department's name regardless of the source of funds. The administrative head is responsible for ensuring that adequate precautions are taken to insure that such materials are reasonably safe from theft, abuse and misuse.

All equipment purchases with Grant, Contract, or Foundation monies are subject to all Department and State regulations governing equipment use, management and disposal; see Policy Statements as may be applicable.

All equipment transferred to the Department from other institutions or agencies, as may be allowed by Grant or Contract terms, are subject to all Department and State regulations governing equipment use, management and disposal; see Policy Statements as may be applicable.

REMOVAL OF DEPARTMENTAL EQUIPMENT

UNAUTHORIZED REMOVAL

Except as indicated herein, Departmental equipment may not be removed and/or disposed of without prior written approval of the Departmental Purchasing Section. Removal of Departmental equipment without such approval may result in the individual being prosecuted for misappropriation of State property and/or larceny.

PERSONAL USE

Material purchased with Departmental funds is the property of the State and as such is not intended for personal use. It is, therefore, not permissible to use Departmental supplies or equipment for personal use.

SOLICITATION OF BIDS AND QUOTATIONS

The Statutes of the State of North Carolina require the solicitation of formal bids by the State Division of Purchase and Contract for non-information technology goods/services when the total exceeds \$10,000.00 or by Information Technology Services (ITS) for information technology goods/services when the total exceeds \$25,000.00. Solicitation of bids and quotations on orders for less than these thresholds and for certain specified items and services are generally the responsibility of the Department. Additionally, State regulations specify that at least three competitive bids be obtained, if possible, for non-information technology purchases under \$10,000.00 or information technology purchases under \$25,000.00. Information Technology goods and services are defined as those related to computer hardware, software and peripherals. **The State indicates no minimum dollar limitation for soliciting quotations.**

The Purchasing Section, following Departmental policy, usually solicits bids or quotations on items being purchased with an estimated cost exceeding \$2500.00. This action is necessary in order to officially determine the price, terms and conditions of the vendor whose product is being sought.

For goods or services with an estimated cost of \$5000.00 to \$10,000.00 the following procurements rules will apply:

- (1) Competition shall be solicited
- (2) Solicitation documents requesting or inviting offers shall be issued

- (3) Solicitation documents shall include standard language, including terms and conditions issued by the Division of Purchase & Contract (P & C) or Information Technology Services (ITS) unless prior written approval to do otherwise is obtained from P & C or ITS. If additional terms and conditions are allowed, they shall not conflict with the terms and conditions of P & C or ITS unless prior written approval to do otherwise is obtained from P & C or ITS.
- (4) Solicitation methods may include hard copy mailings, E-Quote (through the Statewide E-Procurement Service) or IPS (Interactive Purchasing System through the Department of Administration. The solicitation method will be determined by the Purchasing Office.

Information submitted in a successful bid or quotation is used by the Purchasing Section as a basis for preparing the Purchase Order. The Department Purchase Order contains instructions to vendors that prohibit a vendor from accepting an order for shipment unless the vendor meets the printed conditions obtained through the quotation.

If competition is received from the bid solicitation, the requesting department may be consulted before the order is placed. Justification from the user is necessary if the lowest bid meeting specifications and requirements is not selected.

Solicitation of competitive bids and quotations is the responsibility of the Purchasing Section. Any quotations requested by agencies cannot be considered official unless previously authorized and are to be used only as information for the department. Generally, solicitation of quotations by agencies should be done only in conjunction with obtaining technical information about an item.

In issuing Purchase Requisitions for materials, sufficient lead-time must be given to solicit bids, evaluate the bids, place order and effect delivery.

Seven to fourteen working days are generally required to solicit quotations and place a Purchase Order. Formal bids solicited by the State Division of Purchase and Contract require approximately thirty-five to forty-five days. An additional ten days will be required to evaluate the bids and place the order.

GUIDELINES FOR OBTAINING QUOTES AT THE DIVISION LEVEL

Under \$2500.00

Bid solicitation is not required. However, if circumstances permit, solicitation is encouraged in order to obtain the goods or services at the optimal price for the State. If you get a verbal price from a vendor, it is a good idea to have the price confirmed in writing.

\$2500.00 - \$5000.00

Both your quotes and bidder responses must be written. Fax or e-mail may be used for this process. The State's General Contract Terms and Conditions **must** be submitted to each bidder along with your specifications. Terms and Conditions may be obtained from the Purchasing Office.

Over \$5000.00

Requests exceeding this dollar amount should be forwarded to the Purchasing Office for processing.

General Information

- ✓ All bidders **must** receive the same information. Any conversations or sharing of information with one bidder must be done with all. Verbal communication is discouraged. Written communication insures that everyone is informed in the same manner.
- ✓ Any changes in specifications should be shared with all bidders immediately. Again, written communication is preferable to verbal to insure consistent sharing of information.
- ✓ Pricing information **may not** be divulged to any outside party until **after** the quote has been awarded. At that time, all pricing information becomes public record.

Use of the quote process at the Division level will be carefully monitored by the Purchasing Office. Any misuse will result in the immediate termination of that Division's ability to obtain quotes at the division level.

SOLE SOURCE PURCHASES

On some highly technical items/services, there will be only one known source. Justification for a purchase of this type, without competitive bidding, must accompany the agency's requisition. The memorandum should be forwarded to the Departmental Purchasing Section and should give the following information:

Name and address of the suggested supplier, Technical specifications which make the equipment/service unique; Names and addresses of other vendors who provide similar equipment/services, and an explanation of how their equipment/services fail to meet required specifications.

Copies of all correspondence including any vendor quotations received in the selection of the special equipment/services should also accompany the agency's requisition.

If the request exceeds \$10,000.00 in cost for non-information technology goods/services it will be forwarded to the State Division of Purchase and

Contract for processing. If the request exceeds \$25,000.00 for information technology goods/services it will be forwarded to Information Technology Services (ITS) for processing. If justified, the request will be certified as "Sole Source" and purchased without recourse to formal bidding.

If the request is under the \$10,000.00 or \$25,000.00 thresholds mentioned above and is justified, it will be processed by the Departmental Purchasing Section.

This process is used infrequently since there is generally competition for almost any type of equipment/services used by the Department.

WAIVER OF COMPETITION

Under certain conditions, and otherwise if deemed to be in the public interest, competition may be waived. Conditions permitting waiver includes, but are not limited to, the following:

- 1) cases where performance or price competition are not available;
- 2) where a needed product or service is available from only one source of supply;
- 3) where emergency or pressing need is indicated (does not include poor planning);
- 4) where competition has been solicited but no satisfactory offers were received;
- 5) where standardization or compatibility is the overriding consideration;
- 6) where a donation predicates the source of supply
- 7) where personal or particular professional services are required;
- 8) where a particular medical product or service, or prosthetic appliance is needed;
- 9) where a product or service is needed for the blind or severely disabled and there are overriding considerations for its use;
- 10) where additional products or services are needed to complete an ongoing job or task;
- 11) where products are bought for 'over the counter' resale;
- 12) where a particular product or service is desired for educational, training, experimental, developmental or research work;
- 13) where equipment is already installed, connected and in service, and it is determined advantageous to purchase it;
- 14) where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies which thwarts normal competitive procedures;
- 15) where the amount of the purchase is too small to justify soliciting competition or where a purchase is being made and a satisfactory price is available from a previous contract;
- 16) where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable non-profit organization(s);
- 17) where a used item(s) is available on short notice and subject to prior sale.

These processes, like Sole Source Purchases, are infrequently used and subject to substantial justification. All requests to waive competitive bidding should be forwarded to the Departmental Purchasing Section accompanied by an agency requisition.

STATE TERM CONTRACTS

The State Division of Purchase and Contract enters into term contracts with outside vendors to insure favorable prices for many commonly used items. The State has contracts with hundreds of suppliers, covering thousands of individual items.

All State agencies, including the Department of Commerce are required to purchase needed items provided by State Contract from the contracting vendors. It is not permissible to purchase items similar to those on contract and designed to perform the same function from a non-contract source.

Some broad classifications of the items on contract are:

- Appliances
- Audio-visual equipment
- Furniture: office, lounge, and classroom
- Office supplies and equipment
- Paper products
- Photographic equipment and supplies
- Micro computers and peripherals
- Telecommunications Equipment

The Departmental Purchasing Section has information on all State Contracts and will provide detailed information about the many contract items to any agency upon request; or agencies may access **P&C's website @ www.state.nc.us/PandC/**.

JUSTIFICATION FOR EQUIPMENT PURCHASES

All requests submitted for office furniture and equipment, computer hardware, software and peripherals that exceed \$500.00 in cost require a written justification. This justification should accompany your requisition.

BLANKET PURCHASE ORDERS

A Blanket Order is a Purchase Order which has been issued to a vendor, against which specified purchases may be made for a specified period of time. When repeated purchases of the same commodities are expected, multiple agency requisitions may be eliminated by submitting one requisition to establish a blanket Order.

Blanket Purchase Orders are issued for supply type items and services only.

Requests for Blanket Orders are approved by the Buyer, provided they are sufficiently justified. Purchases made by the Blanket Order method are often more expensive, and should be considered carefully.

When requesting Blanket Orders exceeding an annual amount of \$1,000.00, agencies must obtain a minimum of three written quotes. The lowest quote vendor should be selected and entered on your requisition form. You must attach a copy of the written quotes to your request when they are submitted to the Purchasing Office. Blanket Orders for less than the annual amount of \$1,000.00 do not need quotes attached.

SMALL DIRECT PURCHASES

The departmental policy is to allow for miscellaneous purchases totaling a maximum of \$50.00 (excluding tax) **without** the prior approval of the Purchasing Office. **This \$50.00 delegation does not include state term contract items.**

These purchases may be charged to various departmental accounts or placed on individual expense accounts for reimbursement through the Fiscal Management Office. All expenditures are to be receipt supported and approved by Agency/Division Heads. Expenses will be monitored on a random basis and any misuse may result in the privilege being revoked.

This policy has been established for your convenience, but should not be used to circumvent state procurement rules and regulations.

EMERGENCY PURCHASES

Emergency purchases may be made, as described below. The Department is delegated the authority to make emergency purchases not to exceed \$10,000.00 for non-information technology goods/services or \$25,000.00 for information technology goods/services without following the prescribed procedure for routine purchases. All such purchases must be reported by the Departmental Purchasing Section to the State Division of Purchase and Contract with an explanation for handling the transaction as an emergency.

Emergency purchases in excess of \$10,000.00 for non-information technology goods/services must be approved by the State Division of Purchase and Contract before the purchases are made. Emergency purchases in excess of \$25,000.00 for information technology goods/services must be approved by Information Technology Services (ITS) before purchases are made.

Emergencies are defined as:

"Situations which endanger lives, property, or the continuation of vital programs and require immediate, on-the-spot purchases of equipment, materials, supplies or services."

As with all types of purchases, the Departmental Purchasing Section has the sole authority for entering into contracts to secure emergency materials. The Purchasing Section

will solicit quotations by telephone, if necessary; obtain approval of the State Division of Purchase and Contract, if required; and place the order.

SOLICITATION BY SALESMEN

State policy requires that supplies and materials normally be obtained from State contracts or by competitive bidding (except for certain small order requests).

Salesmen are encouraged to visit agencies, to keep them informed of new items being introduced and to assist agencies by providing information on various aspects of their products.

It is not permissible for an agency to receive materials on approval, trial basis, etc., pending issuance of a Purchase Order. It is also not permissible for an agency to accept items by phone solicitation. (copier/fax supplies, etc.) These purchases will be considered unauthorized purchases. (see unauthorized purchases section in this manual).

PRODUCT AND SERVICE DEMONSTRATIONS BY VENDORS

REQUESTED BY VENDOR

From time to time vendors request that they be allowed to demonstrate a new product line or a new service. The Department does not prohibit this type of demonstration; but since space, either in a building or parking lot, must be provided, approval must be obtained.

Vendors are to direct any request for demonstrations to the Purchasing Section. Purchasing will make arrangements for the demonstration, and confirm with the vendor the arrangements that have been made.

The vendor will be responsible for all expenses incurred in the demonstration. The Department will not accept any responsibility for the safety of the vendor's equipment beyond normal care and safety.

REQUESTED BY AGENCY

A more common type of demonstration is that requested by an agency from a vendor for a particular piece of equipment. In these instances, the arrangements are worked out between the agency and the vendor and require no further approval.

All expenses incurred from these demonstrations are the responsibility of the vendor. The Department will not accept any responsibility for the safety of the equipment beyond normal care and safety.

PURCHASE AFTER DEMONSTRATION

The demonstration of equipment to an agency or to an individual in no way obligates the Department to purchase or lease the equipment or service. Any purchase requests issued as a result of demonstrations will be handled in accordance with the normal purchasing regulations of the Department and the State.

EVALUATION OF EQUIPMENT FOR VENDORS

From time to time vendors may request an agency to evaluate equipment, without obligation to purchase.

When a vendor offers equipment for evaluation and the agency is willing to have the equipment installed for evaluation purposes, the agency should secure a written agreement using the following basic guidelines:

1. Equipment must be adequately identified and described, giving model and serial numbers.
2. All shipping charges are to be paid by the vendor.
3. Insurance, if any, is the responsibility of the vendor. The Department may agree to exercise normal operational care and to avoid abuse of the equipment.
4. At the end of the evaluation period, the vendor will be responsible for crating and shipping by a carrier of the vendor's choice.
5. The evaluation of equipment for a vendor does not give the vendor permission to use the name of the Department in any advertisement or as an endorsement.

CHANGES TO PURCHASE ORDERS

When a Purchase Order is written in response to an offer by the vendor and is based on acceptable terms and conditions it becomes a binding contract and cannot be broken by either party so long as both parties honor the terms and conditions of the agreement. To break or cancel the contract requires the consent of the other party.

When a Purchase Order is written to a vendor which is not in accordance with the terms and conditions previously offered by the vendor, it does not become a binding contract unless the Purchase Order is acknowledged and accepted by the vendor in writing or if shipment is made and accepted.

Changes to Purchase Orders **must be approved by the Purchasing Section**. Most vendors are willing to make reasonable changes to an order without penalty to the purchaser. Generally, only when a vendor has expended funds for fabricating special equipment or made shipment will a charge be made for changing or canceling an order.

Any agency desiring to make a change to a Purchase Order should advise the Purchasing Section. Agencies are not allowed to make changes to any Purchase Order without prior approval from the buyer.

A request for change must include:

1. The Purchase Order number
2. Vendor name
3. A detailed description of the change to be made

If the change request is acceptable to all parties, a Change Order will be issued. Copies of the completed Change Order are distributed to all offices which received copies of the Purchase Order.

DELIVERY, FOLLOW-UP INQUIRIES

When notified by the agency that materials have not been received according to the promised shipping schedule, the Purchasing Section will inquire about the status of an order with the vendor and in turn advise the agency.

It is requested that agencies not correspond directly with vendors concerning status of orders or expediting shipments. Experience indicates this only delays shipment. Any request of this nature should be referred to the Purchasing Section for action.

RETURNS OF MERCHANDISE

RETURNS TO OUTSIDE VENDORS

No supplies or equipment should be returned to a vendor for whatever cause without first obtaining the vendor's permission and shipping instructions.

Agencies desiring to return materials to a vendor should contact the Purchasing Section, giving the reason for the desired return. The Purchasing Section will secure permission from the vendor for return of the materials and will obtain shipping instructions. The Purchasing Section will furnish the agency with these instructions to enable them to ship the material.

Since the return of merchandise can be for a number of reasons, such as in-warranty or out-of-warranty repairs, incorrect or defective materials, and over-shipment, the financial responsibility will depend on the reason for the return. Generally, when materials are defective, freight charges and other costs involved are the responsibility of the vendor; otherwise, the agency for which the return is being made must bear the costs involved. Most vendors will charge at least 15% restocking charge when merchandise is returned as a result of an over-purchase or where the Department erred in requesting the materials.

PURCHASING USED EQUIPMENT

Although the Department has no policy prohibiting the purchase of used equipment, it is **not** generally considered to be in the best interest of the Department to purchase used equipment. This does not apply to the purchase of State or Federal Surplus, as surplus equipment offered from these agencies is priced at a very nominal figure.

When a department has a special need for a particular used item, the proposed purchase should be discussed with the Purchasing Section and the request is then submitted on an agency requisition. Normal purchase procedure is then followed.

Often companies will offer, at special prices, demonstrator equipment under new warranty conditions. Offers of this type are usually worthy, but cannot be accepted without first offering competition an opportunity to quote on similar equipment.

RENTAL AND LEASE OF EQUIPMENT

All requests for rental and leasing should be forwarded to the Purchasing Section on an agency requisition.

The request should be accompanied by a memorandum explaining the need for leasing or rental rather than purchasing, a copy of the proposed leasing agreement, if available, and any other communication available concerning the request. The Purchasing Section will review the request and take necessary action consistent with standard purchasing procedure.

Lease agreements are for a definite period of time, usually one to three years, and can not be cancelled during the life of the lease except for lack of appropriated funds. However, a lease may be entered into with the option to purchase the equipment during the life of the lease or at the end of the lease period. If it is determined that the leased equipment will be needed on a continuing basis, it is usually more economical to exercise the option to purchase, provided funds are available to make purchase.

Rental agreements are similar to lease agreements, except that rental agreements are normally for an indefinite period and can be terminated by the renter after giving notice, usually thirty days in advance. The initial cost of some equipment is so great that when this type of equipment is required it may be more economical to rent on a continuing but indefinite basis. Also, new, up-dated versions of this type of equipment are constantly placed on the market, making it unwise to invest large sums in equipment which may soon be obsolete.

Before requesting the purchase of equipment requiring connection to utilities (gas, water, electricity, piped air, etc.) assurance should be obtained that the required utilities are available, at the site. The Building Coordinator should be contacted concerning these matters.

CONFLICT-OF-INTEREST

The two State Statutes which describe conflict-of-interest situations appear below.

The Department's normal policy is not to purchase materials or services from State or Department employees. In this way, the Department is protected from becoming involved in conflict-of-interest situation.

If, however, it is essential to purchase materials or services from State or Department personnel, or from companies in which any State or Department employee may have a major interest, a request should be submitted in writing to the Departmental Purchasing Section for review.

14-234. DIRECTOR OF PUBLIC TRUST CONTRACTING FOR HIS OWN BENEFIT. If any person, appointed or elected a commissioner or director to discharge any trust wherein the State or any county, city, or town may be in any manner interested, shall become an undertaker, or make any contract for his own benefit, under such authority, or be in any manner concerned or interested in making such contract, or in any profits thereof, either privately or openly, singularly or jointly with another, he shall be guilty of a misdemeanor. Provided, that this section shall not apply to public officials transacting business with banks or banking institutions in regular course of business: Provided further, that such undertaking or contracting shall be authorized by said governing board.

14-236. ACTING AS AGENT FOR THOSE FURNISHING SUPPLIES FOR SCHOOLS AND OTHER INSTITUTIONS. If any member of any board of directors, board of managers, board of trustees of any of the educational, charitable, eleemosynary or penal institutions of the State, or any member of any board of education, or any county or district superintendent or examiner of teachers, or any trustee of any school or other institution supported in whole or in part from any of the public funds of the State, or any officer, agent, manager, teacher, or employee of such boards, shall have any pecuniary interest, either directly or indirectly, proximately or remotely in supplying any goods, wares, or merchandise of any nature or kind whatsoever for any of said institutions or schools; or if any or such officers, agents, managers, teachers, or employees of such institutions or school or State or county officer shall act as agent for any manufacturer, merchant, dealer, publisher, or author for any article of merchandise to be used by any of said institutions or schools; or shall receive, directly or indirectly, any gift, emolument, reward or promise of reward for his influence in recommending or procuring the use of any manufactured article, goods, wares, or merchandise of any nature or kind whatsoever by any such institutions or schools, he shall be forthwith removed from his position in the public service, and shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars and be imprisoned, in the discretion of the court.

RECEIVING PURCHASED ITEMS

Purchased items may be delivered to the requesting agency, or when applicable, to the DPI shipping department, located on the basement floor. When the requesting agency receives the goods they should check the shipment for specific content as soon as possible, not later than five days after receipt. If the contents of the delivery are not in agreement with the vendor's invoice, the requesting agency should contact the Purchasing Section. If the

shipment is discovered to have concealed damage, this must also be reported to the Purchasing Section.

If damage is discovered, all packing material and the shipping cartons should be retained until an inspection report is received from the shipper and instructions are obtained as to the disposition of the damaged material and the shipping carton and packing. The Purchasing Section will handle correspondence with the carrier and/or vendor concerning credit for, or replacement of, the damaged merchandise.

It is also very important that upon receipt of the material, and if as ordered, the packing slip and the receiving report of the Purchase Order with the necessary date and signature affixed, be sent immediately to the Purchasing Section.

In the event that only a partial shipment is received, mark the receiving report partial, attach the packing slip and submit to the Purchasing Section.

PRINTING AND DUPLICATING

Departmental policy requires that all requirements for printing and duplicating be submitted to the Purchasing Section by requisition. **Exceptions** to this policy are those items that can be efficiently and economically processed by the Department of Corrections, Prison Enterprises. All Department of Correction's printing should be submitted directly to Corrections on their standard order form, with necessary artwork. Blank forms may be obtained from the Purchasing Section, DPI's Central Duplicating Center, or the Department of Corrections.

STATE AND FEDERAL SURPLUS PROPERTY

FEDERAL SURPLUS PROPERTY

The State of North Carolina operates a surplus property warehouse in Raleigh for use by state agencies in obtaining Federal Surplus Property. The warehouse is located at 1950 Old Garner Road. Federal Surplus Property is available to the Department at no cost except a nominal service charge. A wide assortment of supplies and equipment is regularly available, with a number of items having application to the needs of the Department. No agency requisition is necessary prior to purchase by those authorized to make purchases.

Listings of Federal Surplus Property are available at the Federal Surplus Warehouse.

Authorization to use the surplus facility is obtained from the Departmental Purchasing Section on request. The Purchasing Section prepares an agreement form which must be approved and signed by the Department's Purchasing Officer for submission to the Federal Property Agency for their review. Only those items which have a known value to an agency and which have relatively immediate application should be purchased. Motor vehicles and office machines may be acquired only after approval by the Department's Purchasing Officer.

Items obtained from Federal Surplus must be used in accordance with instructions or the signed agreement prepared by the Federal Property Agency. Federal Surplus Property may not be acquired for personal use nor can it be disposed of except in accordance with instructions printed on the agreement form. Major equipment items normally have substantial restrictions on use and length of use.

STATE SURPLUS PROPERTY

The Purchasing Section is responsible for disposition or transfer of all surplus and excess property. Agencies which have surplus or excess property should contact the Purchasing Section for instructions and forms on disposition.

TRANSFER OF SURPLUS PROPERTY

Property which is surplus to one agency may be of value to another. Accordingly, such items may be transferred directly between departmental agencies. When an agreement is reached on the transfer, the agency or division transferring the property sends a memorandum to the Fixed Asset Officer in Fiscal Management, which serves as official notification of the transfer.

TRADE OF EQUIPMENT

Some used equipment has value when used as a trade on the purchase of new equipment of the same type. Examples are office machines and scientific equipment. When used equipment is to be traded in on new equipment, this notation should be made on the agency requisition for the new equipment. The used equipment should be identified by model number, serial number, description, and departmental fixed asset number. In soliciting bids, the used equipment will be offered as a trade-in allowance.

PURCHASE OF FLORAL ARRANGEMENTS/GREENERY

Flowers, flower arrangements, (silk or live) and greenery (silk or live) desired for aesthetic value in offices and lounges may not be purchased and charged to State funds. Purchase of these items may only be made against Trust Funds.

PURCHASE OF CHRISTMAS DECORATIONS AND GREETING CARDS

Christmas decorations or other seasonal decorations may not be charged to State funds. Unless an agency has Trust funds which may be authorized for such uses, decorations and greeting cards are the responsibility of the individual making or authorizing the purchase.

The only exception to the rule above is for the Welcome Centers across the State. Petty cash may be used for this purpose but only after prior approval has been obtained from the Director of the Welcome Centers and the Departmental Purchasing Officer.

PURCHASE OF PAINTINGS, ART WORK, ETC.

Works of art, paintings, drawings, plaques, etc. desired for aesthetic value may not be purchased with State funds. Purchase of such items may only be made against Trust funds.

PURCHASE OF PERSONAL CONVENIENCE ITEMS

The purchase of personal convenience items may not be made with State funds. Purchase of these items may only be made against Trust funds. Listed below are items normally considered in this category. Should you have questions concerning any item not listed, contact the Purchasing Section.

DESK SETS (DECORATIVE)

COFFEE MAKERS

FANS

HEATERS

DESK LAMPS

DESK CLOCKS

FRAMING OF PERSONAL PICTURES/CERTIFICATES (these are defined as items taken with the employee upon separation from the department.)

MICROWAVE OVENS

REFRIGERATORS

RADIOS, TV'S, ETC.

CONSULTANT SERVICES

In accordance with State policy, the employment or securing of services of a consultant requires special approval. Services of a consultant of an advisory nature shall mean work or task(s) performed by State employees or independent contractors possessing specialized knowledge, experience, expertise, and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis, or advise in formulating or implementing improvements in programs or services. This includes, but is not limited to the organization, planning, directing, control, evaluation and operations of a program, agency or department.

This policy does not apply to contracts for attorneys employed by the North Carolina Department of Justice or by other agencies of state government pursuant to the provisions of G.S. 147-17, to contracts for physicians or doctors providing direct medical care for the clientele of any state agency, to contracts entered into by the General Assembly or its special study commissions, to contracts entered into by the Institute of Government to provide or obtain consulting or advisory services, to contracts to provide services without compensation to the provider of the services or to his employing agency or to contracts entered into by a state agency pursuant to specific statutory authority which provides, in the opinion of the Governor or his designee, a specific alternative procedure for the selection and award of such contracts.

It is the policy of the state that state agencies shall acquire consultant services only after it is determined that the function for which the consultant is retained cannot be reasonably accomplished by employees of the agency seeking such services; that the use of a consultant is reasonably necessary to the proper operation of the state agency; that the estimated cost is reasonable as compared with the likely benefits or results; that funds are available for such contract; that the contract is in the best interest of the state; and that all rules and regulations of the Division of Purchase and Contract have been or will be complied with, all as determined by the Governor or his designee and the Division of Purchase and Contract. In acquiring such services, competition shall be sought whenever practicable as determined by the Division of Purchase and Contract. No agency of state government which is subject to the provisions of these rules may contract for services of a consultant nature except in accordance with the provisions of these rules.

It is the policy of the State that, whenever possible, consultant services shall be obtained from the State agencies when the services available from other State agencies substantially meet the reasonable specifications of the requesting agency.

Before receiving authorization to seek consultant services, an agency shall submit, through the Departmental Purchasing Office, to the Division of Purchase and Contract written justification for its request for consultant services. This written justification shall at a minimum explain what services the agency desires to secure, why the work to be performed by the consultant cannot be reasonably accomplished by employees of the requesting agency, how the work to be performed relates to the proper functions of the agency, what benefits the agency expects to receive from the consultant's services, what this agency estimates to be the cost of the services sought, what potential sources of consultant services if any the agency has identified and such additional information as the Governor or the Division of Purchase and Contract may require. If the agency is requesting authority to contract for consulting services outside of state government, it shall also detail what potential sources of those services exist within state government and explain why the desired services were not available from those sources. The written justification shall be accompanied by a letter of endorsement for the proposed contract(s) from the Department head or his designee.

The documents submitted by agencies requesting authority to retain consultants will be reviewed by the Division of Purchase and Contract. Upon completion of this review the requesting agency will be advised, subject to such conditions as may be prescribed by the Governor or his designee, to:

- (1) Sources within state government; or
- (2) solicit proposals from private contractors; or
- (3) execute a negotiated contract(s) without competitive proposals if the Division of Purchase and Contract and the Governor have determined that performance or price competition is not available or that the requirement is for an authorized cooperative project with another governmental unit(s) or a public or private nonprofit organization(s) or that the contract price is too small to justify soliciting competitive proposals; or
- (4) abandon the project for being outside the scope of the agency's responsibilities or for having insufficient benefit to the state relative to the potential expenditure of funds.

Once the Department receives approval to solicit proposals for consultant services, the Purchasing Section will proceed with other necessary action in accordance with prescribed policy.

Any modification to an approved contract(s) shall be subject to the same approval requirements as the original contract(s). The Governor or his designee may at his option, during the process of reviewing requests for contract modifications, waive any of these provisions.

Any contract executed without the approval of the Division of Purchase and Contract and the Governor or his designee shall be void, and no state funds shall be expended pursuant to any such contract. Any employee or official of the State of North Carolina who executes a contract without the approval of the Governor or his designee shall be liable to repay any amount expended pursuant to such contract plus court costs.

CONTRACTUAL SERVICES

Contractual services shall mean work performed by an independent contractor requiring specialized knowledge, experience, expertise or similar capabilities wherein the service rendered does not consist primarily of acquisition by the State of equipment or materials. For the purpose of clarification equipment service contracts are contractual services and subject to the rules and regulations herein.

The following types of service shall be exempt from adherence to procedure for securing contractual services:

1. Services provided by individuals by direct employment contracts with the State.
2. Public utility services (gas, water, and electricity).
3. Telephone, and cable services furnished by those companies.
4. Services provided which are subject to published tariff rates as established by the Interstate Commerce Commission.
5. Services which are merely incidental to the purchase of supplies, materials or equipment such as installation service.
6. Contracts for construction of and structural changes to public buildings.

7. Personal services provided by a professional individual on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts and similar professions; the exemption applies only if the individual is using his/her professional skills to perform a professional task; a personal service may also be a consulting service, in which case it would be subject to the provisions as previously stated.
8. Services provided directly by an agency of the State, Federal or local Government, or their employees when performing the service as a part of their normal governmental function.
9. Any other service designated to be exempt by the State Purchasing Officer, or his authorized representative.

A service contract shall mean any agreement in which an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a state agency for compensation from state funds. The services may include (by way of illustration, not limitation) services such as maintenance of buildings or equipment, auditing, film production, employee training, etc., provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services. Contracts for rental of equipment, materials or supplies shall be deemed to be service contracts. State funds shall mean any and all money appropriated by the General Assembly of North Carolina, or monies collected by or for the state or any agency thereof, pursuant to the authority granted in any of its laws.

It is the general policy of the Department to acquire contractual services by seeking competition. The final decision making authority in regard to any phase of procurement or performance of any contractual service is the Purchasing Section.

Before an agency of the Department shall seek to obtain a contractual service, it shall make all the following determinations: that funds are available to cover the total cost of the service; that the services can not be provided within the Department or by another state entity; that the desired level of quality of the service is adequate and reasonable for the purpose intended; that all rules, regulations and procedures referred to herein have been or will be complied with; that obtaining the service is in the best interest of the Department.

After all determinations listed above are made, they shall be incorporated into a letter of justification and forwarded to the Purchasing Section. The letter of justification shall include an estimated cost for obtaining services. Once approved, the Purchasing Section will take necessary action to secure the requested services, either by competitive bidding or negotiation. In the event the estimated cost exceeds \$10,000.00 for non-information technology goods/services, the request will be forwarded to the Office of Purchase & Contract for competitive bidding or negotiation. In the event the estimated cost exceeds \$25,000.00 for information technology goods/services, the request will be forwarded to Information Technology Services (ITS) for competitive bidding or negotiation.

When justification for the service has been completed, the agency shall prepare a complete task description, outlining in detail the services required. The task description

shall, as a minimum, include the following: the date(s) of service, detailed specifications or type and level of work required; what the state will furnish; what the contractor will furnish; the method and schedule of payments to the contractor; any other terms, conditions, specifications or procedures bearing on the conduct of the work.