



North Carolina  
Department of Transportation

*Purchasing Office*

*Purchasing Policy and Procedures Manual*

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# INTRODUCTION AND GENERAL OVERVIEW

## 1.0 STATEMENT OF GUIDING PRINCIPLES FOR NCDOT PROCUREMENT

The mission of the DOT is connecting people, products, and places safely and efficiently with customer focus, accountability, and environmental sensitivity to enhance the economy and vitality of North Carolina. DOT Procurement is committed to deliver on a timely basis the best value products and/or services to assist in the fulfillment of the department's mission, while maintaining the public's trust and achievement of public policy objectives. Participants in the procurement process should work together as a team and should be empowered to make decisions within their areas of responsibilities.

The Procurement process will:

- Satisfy the customer in terms of cost, quality, and timeliness of the delivered products and/or services
- Maximize competition
- Minimize administrative costs
- Conduct business with integrity, fairness, and openness, and
- Fulfill public policy objectives

## 1.1 ETHICS & INTEGRITY

Public business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in DOT employees-contractor relationships.

DOT Procurement professionals are charged with safeguarding the integrity of the procurement process. All DOT employees are responsible for maintaining the impartiality of the process and ensuring complete transparency and fairness within the regulatory framework.

## 1.2 PURPOSE

This manual is intended to provide the basic laws, rules, policies, and procedures that must be followed in carrying out procurement responsibilities in the North Carolina Department of Transportation. It applies to the acquisition of all non-IT equipment, materials, supplies, printing, and services procured under G.S. 143 only.

This manual is not all-encompassing of the laws, rules, and policies on procurement. In addition to this manual, the [Department of Administration, Division of Purchase and Contract \(P&C\)](#) provides additional resources on its website to insure compliance with all purchasing requirements in conducting day-to-day purchasing activities under G.S. 143.

This Policy and Procedures manual supplements [the North Carolina Procurement Manual](#) to address and provide for DOT specific procurement authorities and processes.

## 1.3 PROCUREMENT AUTHORITY AND RESPONSIBILITY

In accordance with the N. C. General Statutes and N.C. Administrative Codes affecting Procurement and the delegations of the Department of Administration, Division of Purchase and Contract (P&C), the Secretary of the Department of Transportation is responsible for administering the DOT's program for the acquisition of goods and services. The administration of this program has been delegated by the Secretary to NCDOT's Director of Purchasing.

## 1.4 RESPONSIBILITY OF PROCUREMENT

Within DOT, the Procurement Office is responsible for administering DOT's program for the acquisition for all non-IT by purchase, lease, or rental of equipment, materials, supplies, printing, and services for all DOT with the exception of Division of Highways (DOH) construction-related projects and the maintenance of those projects. This oversight responsibility includes, but is not limited to:

- Training and oversight of the acquisition of goods and services; and,
- Serving as DOT's Liaison with P&C.
- Making all contact with P&C for NCDOT Divisions and Business Units purchases.

## 1.5 RESPONSIBILITY OF ALL DOT DIVISIONS/BUSINESS UNITS

The management of each DOT Division//Business Unit is charged with establishing specific responsibilities and administrative duties of personnel who act on its behalf in the procurement process for goods and services. Each Division/Business Unit is likewise responsible for decisions made and actions taken by employees charged with these responsibilities in the procurement process.

All DOT shall be responsible for handling each requirement in accordance with all laws, rules, policy, and this manual. If there is ever a question as to the appropriate procedure to follow, contact the Procurement Office prior to proceeding with any action. In addition, each Division/Business Unit:

- Shall safeguard against conflicts of interest, or the appearance of a conflict of interest.
- Shall monitor purchases to guard against splitting orders in an attempt to avoid competition requirements. This includes monthly and quarterly (scheduled buying) purchases.
- Shall monitor procurement activity to determine if a Statewide or Agency Specific Term Contract is more appropriate.
- Shall immediately report to the Procurement Office if it is determined that vendors are inflating prices of commodities or services as a result of a non-competitive process, or where collusion might be suspected.
- Shall always conduct him/herself in a professional manner and maintain an effective businesslike relationship with DOT users, coworkers, vendors, and others that you may have contact with while carrying out your assigned duties.

## 2.0 NORTH CAROLINA STATUTORY AUTHORITY, ADMINISTRATIVE CODE, AND POLICY

North Carolina General Statute 143-59(b), requires, for the purpose only of determining the low bidder on all contracts for equipment, materials, supplies, and services valued at over \$25,000.00.

All non-IT requirements must be purchased in accordance with Article 3 and 3C of General Statutes Chapter 143 and the N.C. Administrative Code 01 NCAC 05, adopted by the Division of Purchase and Contract (P&C) of the Department of Administration. The only exception to this requirement is the procurement of services authorized in accordance with General Statute 136-28.1 for highway construction, maintenance, operations and/or repair.

If the Department contracts for the purchase or lease of any commodities or services contrary to statutes or North Carolina Administrative Code (NCAC), such contract shall be void and of no effect. It is the responsibility of all Departmental personnel involved in the procurement process to ensure that contracts are established in accordance with all applicable laws, rules, policies, and procedures. Departmental personnel involved in the purchasing process will be held accountable for unauthorized purchases and improper purchasing practices.

### 2.1 CORRECTION ENTERPRISE

[http://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_148/Article\\_14.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_148/Article_14.pdf)

All departments, institutions, and agencies of this State that are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles, products, and commodities that these departments, institutions, and agencies require and that are manufactured or produced within the State prison system and offered for sale to them by Correction Enterprises.

### 2.2 NONPROFIT WORK CENTERS FOR THE BLIND AND SEVERELY DISABLED

Session law 2021-180, Section 20.12 (a) through (c) amended G.S. 143-129.5 to require that P&C annually canvass nonprofit work centers for the blind and severely disabled to determine what goods

and services they offer and to secure contracts to make those goods and services available to the state entities that require them (STC 0002A). G.S. 143-48.2 was also amended to require that state entities purchase from those contracts so long as:

- 1) The purchase of goods does not exceed the agency's general delegation.
- 2) The goods or services are not available from an STC.
- 3) The goods are not available from Correction Enterprises.
- 4) The goods or services must be of suitable price and quality, as determined by the agency.

Where needed goods or services are not available from Correction Enterprises, state entities must determine whether those items can be supplied pursuant to the STC established with the nonprofit work centers for the blind and severely disabled.

### 2.3 EXECUTIVE ORDER NO. 50 ENHANCED PURCHASING OPPORTUNITIES FOR NORTH CAROLINA BUSINESSES

<https://files.nc.gov/ncdoa/documents/E050.pdf>

<https://www.sosnc.gov/>

A price matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. A "resident bidder" is a "bidder" that has paid unemployment taxes or income taxes in this State and whose principal place of business is in this State.

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%) or \$10,000, whichever is less, of the nonresident bidder's price. If the resident bidder requests and qualifies for the price-matching preference in its bid submission, the resident bidder will first be offered the contract award and it will have two (2) business days to accept or decline the award based on the lowest responsible non-resident bidder's price.

### 2.4 NC Governor Roy Cooper October 29, 2018: EXECUTIVE ORDER NO. 80, NORTH CAROLINA CLEAN ENERGY ECONOMY

<https://deq.nc.gov/energy-climate/climate-change/nc-climate-change-interagency-council/climate-change-clean-energy>

Executive Order #80 emphasized North Carolina's commitment to the 2015 Paris Agreement goals, to include specific targets to be accomplished by 2025. DOT employees should strive to minimize the environmental impacts by responsible purchasing. DOT should demonstrate leadership in buying recycled and environmentally preferable (EP) products to promote reuse, prevent waste, reduce toxicity and conserve energy.

### 2.5 EXECUTIVE ORDER 150, SUPPORT FOR HISTORICALLY UNDERUTILIZED BUSINESSES (HUB)

<https://files.nc.gov/ncdoa/documents/files/eorder150.pdf>

<https://governor.nc.gov/documents/executive-order-no-25-governors-advisory-council-historically-underutilized-businesses>

Promoting and encouraging Historically Underutilized Businesses (HUBs) is central to the economic growth and stability of the State of North Carolina. Small and historically underutilized

businesses promote equal opportunity, eliminate barriers, and stimulate growth to allow for new businesses to blossom.

Under EXECUTIVE ORDER 25, The Governor established the Advisory Council on Historically Underutilized Businesses to further emphasize the State's priority to promote the recruitment and utilization of HUBs by providing them access to purchasing and contracting opportunities.

DOT has emphasized the use of certified HUB Businesses, as follows: Procurement Technicians, Procurement Specialists, Contract Specialists and P-Card holders are strongly encouraged to award non-competitive purchases up to \$10,000 to certified HUB businesses.

### **Historically Underutilized Business (HUB)**

This Executive Order will serve to assist in the increase of certified small businesses in contracting opportunities and facilitate the purchases from these businesses.

Procurement Technicians, Procurement Specialists, Contract Specialists and P-Card holders should verify certification through the HUB Vendor Search at:

<https://www.ips.state.nc.us/vendor/searchvendor.aspx?t=h> before executing the purchase.

HUB Vendors can be found on the HUB Office website and searched by commodity or using the E-Procurement Vendor Search.

### 2.6 ANTI-TRUST

[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_133/GS\\_133-24.pdf](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/BySection/Chapter_133/GS_133-24.pdf)

As provided in G.S. 133-24, every person who shall engage in any conspiracy, combination, or any other act in restraint of trade or commerce declared to be unlawful by the provisions of G.S. 75-1 and 75-2 shall be guilty of a felony under this section where the combination, conspiracy, or other unlawful act in restraint of trade involves: (1) A contract for the purchase of equipment, goods, services or materials or for construction or repair let or to be let by a governmental agency; (2) A subcontract for the purchase of equipment, goods, services or materials or for construction or repair with a prime contractor or proposed prime contractor for a governmental agency.

Some anti-trust violations most likely to arise in a procurement context are commonly known as "price fixing" or "bid rigging" and are also referred to as "collusion". Price fixing among competitors can take many forms. For example, competitors may take turns being the low bidder on a series of contracts or they may agree among themselves to adhere to published list prices. Any indication or hint that such action is taking place should be reported immediately to purchasing.

### 2.7 RECIPROCAL PREFERENCE LAW

<https://ncadmin.nc.gov/government-agencies/procurement/procurement-rules/reciprocal-law>

[http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_143/GS\\_143-59.pdf](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_143/GS_143-59.pdf)

<http://reports.oah.state.nc.us/ncac/title%2001%20-%20administration/chapter%2005%20->



[%20purchase%20and%20contract/chapter%2005%20rules.pdf](#)

The reciprocal preference law requires that all agencies apply a reciprocal preference to the bid price of an out-of-state bidder, when required, on all contracts for equipment, materials, supplies, and services that exceed \$25,000.00 in value when that bidder's home state has an in-state preference law. This amount shall be done for the purpose of determining the lowest bidder.

The [North Carolina Administrative Code 01 NCAC 5B.1522](#), requires:

- (a) Each solicitation document used to obtain contracts for equipment, materials, supplies, and services that exceed twenty-five thousand dollars (\$25,000) in value shall include space for a bidder to give its principal place of business address if it is different than the address given in the execution section of the solicitation document. This information shall not prevent the agency that issued the solicitation document from investigating this information and concluding that the principal place of business is different, according to its interpretation of G.S. 143-59(c).
- (b) A reciprocal preference shall not be used when procurements are being made under G.S. 143-53(a)(5), G.S. 143-57, and G.S. 136-18.
- (c) For the purpose of this Section, a bidder and offeror, as well as bid and proposal, are interchangeable.

## 2.8 COMPETITIVE BIDDING

Competition in its best form is a mirror of a free and open economy. North Carolina's purchasing program is built on the principle of competitive bidding. There is a strong preference for competition in all procurement actions to ensure broad vendor participation, price competition, and a variety of technical/management solutions -- all with the goal of obtaining best value for DOT. Any exception to competition must be supported by a documented business case explaining why competition could not be achieved.

The importance of seeking competition exists at all levels of expenditure not just in solicitations above the \$50,000.00 benchmark for DOT. Below the \$50,000.00 benchmark, the competitive element is just as important and can be sought through some form of informal bidding or quotation.

Fostering competition is a cornerstone of an effective procurement process. It is reflected in the way specifications are written, in searching for new sources of supply, in efforts to make procurement documents user friendly, and in everyday courteousness shown to prospective suppliers and contractors. Seeking fair and open competition is critical to conserving our monetary resources. Price alone should not be considered as the sole criteria for evaluation of competition.

## 2.9 NON-COMPETITIVE EXTENSION OF EXISTING CONTRACTS

Non-competitive extensions of existing contracts are often the result of failure to plan and project future requirements. Non-competitive extensions are often costly and do not represent the best

value for the DOT and its customers. To mitigate these risks, non-competitive extensions shall be limited to a period of no more than twelve months to allow for a follow-on competitive procurement to be completed.

Administrative Code requires that except as otherwise provided by statute, a contract with a term that exceeds three (3) years, including the initial contract term and any renewal and extension, requires approval of the State Purchasing Officer (SPO) prior to posting the solicitation. If we fail to plan and accurately project future requirements and an extension will exceed the three (3) year limitation period without prior SPO approval, DOT Procurement Office must submit a matter of record documentation to P&C.

### 3.0 DELEGATIONS

DOT Procurement Office is given a general delegation for non-IT Goods and Services. The general delegation is the dollar amount of commodities, printing and contractual services that DOT is authorized to purchase, rent, lease, lease purchase, or installment purchase without P&C review and approval. The general delegation for DOT is \$50,000 for non-IT goods and services. This delegation may not apply when the goods or services are available on a State Term Contract (STC). When using a State Term Contract, abnormal quantities may apply, and DOT Procurement Office will validate the amounts and seek additional approvals when required.

The delegation amounts are cumulative in that if at any point a purchase is anticipated to exceed a delegation, the processes and approvals for the higher amount must be followed, which may include P&C approval. DOT Procurement Office must verify if STC exists and meet the requirement and if they determine that the STC cannot, it must be properly documented in the contract file.

DOT Procurement Office has established Departmental policies, procedures and thresholds for purchases below and above the DOT general delegation. Delegations, where applicable, do not relieve DOT Divisions/Business Units of accountability to the Procurement Director for all matters relating to the procurement. All procurement must be in accordance with procedures established in this manual, the Administrative Code, and the DOA P&C Procurement Manual.

#### 3.1 GENERAL DELEGATION

The maximum authorized dollar limits (delegation) for purchases of commodities, printing, and services for DOT is \$50,000. All purchases over \$50,000 must follow formal competitive bidding procedures using the NC electronic Vendor Portal (eVP), unless a waiver of competition has been approved by P&C and/or NCDOT Procurement Office Director or his/her designee.

Purchases shall not be divided into more than one procurement event in order to keep the separate purchases under the general delegation, and thereby attempt to avoid the rules requiring the applicable method for competition.

#### 3.2 SPECIAL DELEGATIONS

P&C may authorize, by special delegation, the Department to purchase specific commodities, printing, or contractual services without limitation as to the dollar value of the expenditure. Such

delegation is normally confined, but not limited to, items and quantities or services which by their nature or circumstance (i.e., road maintenance, transportation costs, market volatility, local conditions or local availability), would result in P&C's handling serving no practical purpose.

Some special delegations apply to all agencies, and some are DOT specific. All delegations shall be in writing and made a matter of record.

Purchases exempt from DOA - P&C approval are not exempt from competition. Rather the competitive process does not require P&C approval.

### 3.3 DOCUMENTATION FOR SPECIAL DELEGATION

All delegations shall be in writing and retained as a matter of record. Unless otherwise specified by the SPO, special delegations are subject to all of the following conditions:

1. All commodities and contractual services covered by term contracts must be purchased in accordance with the instructions of each term contract.
2. Competition must be solicited, where available. If competition is not available, the reason(s) must be documented in the procurement file in the form of an approved waiver of competition.
3. The solicitation document shall include North Carolina General Terms and Conditions and any other consistent contract language issued by the SPO, unless prior approval from the SPO is granted to substitute modified language.
4. All transactions shall be documented.
5. Awarding of contracts under a special delegation shall be the responsibility of the agency's Executive Officer (agency head) or his/her designee i.e., Procurement Director.
6. Specific delegations may be subject to additional conditions as determined by the SPO. These conditions shall be submitted to the agency in writing.
7. P&C shall periodically review all approved special delegations to ascertain the availability of these items or services and their continued suitability for delegation.

### 4.0 EXEMPTIONS AND UNAUTHORIZED PURCHASES

#### 4.1 EXEMPTIONS (NON-IT)

It is not mandatory for the items and services listed below to be purchased through P&C; however, the Department still requires that a competitive or waiver of competition process be followed:

- liquor;
- Perishable articles such as fresh meats;
- Services provided by individuals by direct employment contracts with the State;
- Public utility services (gas, water and electricity);
- Published books, manuscripts, subscriptions to printed material, packaged copyrighted

software products, and like material;

- 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;
- Contracts for construction of and structural changes to public buildings;
- Telephone, telegraph and cable services furnished by those companies;
- Services provided which are subject to published tariff rates as established by the NC Utilities Commission;
- Services that are merely incidental to the purchase of supplies, materials or equipment such as installation services;
- In addition to products and services exempted by statute, the SPO may exempt other products and services from purchase through P&C provided the SPO makes findings (1) that competition will not enhance the price that the State would receive for the product or service ; and (2) that competition will not enhance the quality of the product or service that the State would receive
- Contracts for bakery products and dairy products shall be awarded through P&C, if over agency's delegation.

#### 4.2 OTHER EXEMPTIONS

Currently, the following items are exempted from P&C pursuant to 01 NCAC 05B .1601(b):

- Repairs (Non-Construction): Using agencies are authorized to purchase minor repairs from the private sector, regardless of cost.
  - NOTE: Structural changes made to or in agency buildings shall be handled by the State Construction Office in accordance with the construction statutes and rules applicable to each agency. P&C does not handle these contracts unless otherwise specified. (See G.S. 143- 128 and G.S. 143-129 concerning building repairs and renovation)
- Animals, Poultry, and Fish: Using agencies are authorized to purchase animals, poultry, and fish.
- Feed: Using agencies are authorized to purchase feed, including special ingredients for animals, poultry, and fish.
- Athletic Apparel: Using agencies are authorized to purchase athletic apparel. Safety concerns for the athletes should remain within the using agency and its subject matter experts.
- Aircraft Maintenance: Using agencies are authorized to purchase aircraft maintenance and repair (see Repairs (Non-Construction)) whether unexpected or scheduled. This does not include the purchase of equipment, materials, or supplies for the aircraft that are separate and apart from the maintenance or repair being performed.
- Playground Equipment (Structures): Using agencies are authorized to purchase and install playground equipment when handled as a goods purchase versus a construction project.
- Ready-Mix Concrete: Using agencies are authorized to purchase ready-mix concrete for a good, not a construction project.

#### 4.3 UNAUTHORIZED PURCHASES

The following types of purchases and/or contracts will not be entered into by DOT:

- (a) Those that provide payment or other compensation to any employee of DOT from any

of the DOT's divisions and/or business units.

- (b) Those that provide direct payment to any employee of the State or State supported University. Such situations should be handled under dual employment guidelines. These situations must be in compliance with the current policies of the Office of State Human Resources and the Office of State Budget and Management. "Individuals-on-loan" are included in this prohibition; no direct fee for service payments shall be made by the borrowing agency.
- (c) Those that would provide payment to any person or DOT Division or Business Unit from another state, unless attached justification clearly describes why comparable expertise is not available within North Carolina, or vendor is selected through competitive procedures.

From time to time DOT is audited for compliance by the Department of Administration and the Office of the State Auditor for compliance to purchasing rules. Therefore, it is essential that all DOT Divisions and Business Units follow these rules and regulations when purchasing goods and/or non-construction related services. DOT will not backdate purchase orders to compensate for unauthorized purchases. We also understand that on occasion special circumstances (true emergencies) arise in which alternative methods might have to be employed; however, these instances are few and far between.

## 5.0 ACCOUNTABILITY, MONITORING AND TRAINING

DOT Procurement Office Management team is responsible for compliance with the North Carolina Administrative Code and General Statutes, DOA P&C Procurement Manual, the DOT Policy and Procedures Manual and DOT Directives. Directors may delegate authority to carry out functions, but delegation does not relieve them of responsibility and accountability to the Secretary of DOT for matters relating to the procurement of goods and/or services.

DOT Procurement will act as a resource and assist with the procurement of goods and services, pursue resolution of any procurement problems within the department and monitor procurement of goods and services functions within each of DOT's Divisions and Business Units. The purpose of monitoring is to ensure consistency of procedures within the Department, assist in resolving problems in the procurement of goods and/or services, and to prevent purchasing problems.

Any purchase or procurement of goods or services not in compliance with the policies and guidelines outlined in this manual may result in those responsible being held personally liable for the infractions, including possible repayment of any funds improperly expended.

As rules and regulations change and Divisional turnovers occur, DOT Procurement Office will provide training to those responsible for purchasing. Depending on the complexity of training needed, this training may be combined with the Compliance/Quality Assurance Reviews.

## 6.0 COMMODITY SPECIFICATIONS

Sources of information for NCDOT purposes are federal, state and other governmental purchasers, standards groups among various industries and manufacturer's associations and technical societies such

as the American Society for Testing Materials (ASTM), the Society of Automotive Engineers (SAE), and Underwriter's Laboratories (URL) etc.

Specifications developed by the NCDOT must draw from that which is available in the market and is acceptable for the particular procurement. There are several types of specifications as indicated below:

**Performance** - where function and use of the product needed are the basic requirements.

**Design** - where particular dimensions and physical requirements of the product and their arrangement are the basic requirements.

**Brand Name** - where the bidding is limited to a single product and only that product will meet an intended need for certain reasons which must be justified and documented.

**Brand Name or Equivalent** - where one or more products have the characteristics of the item desired.

Note that performance type specifications are desirable as they tend to be less restrictive, encourage design and production ingenuity on the part of the manufacturer, and provide for a better cost-value tradeoff.

A specification, however, cannot be unduly restrictive. Usually more than one make, brand or model is satisfactory to meet a requirement. Therefore, in seeking competition on products which are designed and marketed by the sellers, the specification shall describe the form and/or function of the item rather than the specific make/model or brand. The particular product or service ultimately acquired and the supplier of it are a result of purchasing decisions made through the evaluation of competitive proposals and of compliance with specifications.

## 7.0 PRODUCT AND/OR SERVICE CONTRACTING

The Scope of Work (SOW) is a narrative description of products or services required by a DOT Division or Business Unit. A detailed SOW is an important element of a successful request for quotation/proposal or contract for goods or services when it is essential to describe the requirement in detail. The requirements contained in the SOW are typically based on the business needs, products, or service requirements. To be effective, the SOW must contain an appropriate level of detail, so all parties clearly understand what work is required, the duration of the work involved, what tasks, milestones and deliverables are required to be met, and the required level of acceptable performance. Developing a clear, concise, and effective scope of work is essential to ensure a greater likelihood of successful contractor performance.

## 8.0 SCOPE OF WORK CONTENT

The Scope of Work (SOW) should include the following components:

- **Introduction:** *(Give brief description of services required. This section should allow potential offerors to judge whether they are interested in providing the services) (No more than 1-2 paragraphs)*
- **Background:** *(Describe how the services fit into the using agency's function, legislation or new initiatives that necessitate these services) (No more than 1-2 paragraphs)*
- **Objectives:** *(Describe the business drivers and state the high-level goals for this project)*

- Scope: (Describe the work required using narrative or outline as appropriate. Include tasks, schedule, deliverables, milestones, environmental or regulatory constraints, state interfaces, etc. *Be as specific as possible, since this will be the basis for evaluating proposals and monitoring the selected contractor's performance.*)
- Description of Work Required:
  - Task(s) To Be Provided by Vendor
  - Timeline for Task(s) Completion
  - Deliverable(s) To Be Provided by Contractor
  - Milestone(s) To Be Met by Contractor
- Performance Standards and Reporting Requirements
- Staffing Requirements
- Resources to be Provided
- Appropriate Reference Documents

## 9.0 RECORD RETENTION

### **Oversight**

**Access to Persons and Records:** Auditors shall have access to persons and records for all contracts or grants entered by State agencies or political subdivisions in accordance with General Statute 147-64.7. Additionally, as the State funding authority, the Department of Transportation shall have access to persons and records for all contracts or grants entered by NCDOT.

### **Record Retention**

Records shall not be destroyed, purged, or disposed of without the express written consent of the DOT Division or Business Unit. State basic records retention policy requires all records to be retained for a minimum of five (5) years or until all audit exceptions have been resolved, whichever is longer. If the contract is subject to federal policy and regulations, record retention may be longer than five years. Records must be retained for a period of three years following submission of the final Federal Financial Status Report, if applicable, or three years following the submission of a revised final Federal Financial Status Report. Also, if any litigation, claim, negotiation, audit, disallowance action, or other action involving this Contract has been started before expiration of the five-year retention period described above, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular five-year period described above, whichever is later.

## 10.0 AGENCY/VENDOR COMPLAINT SERVICE

For contracts and purchases \$50,000.01 and above, a centralized agency complaint service has been set up within the DOA P&C to handle problems that arise between agencies and vendors. When a problem arises with a vendor, whether it is late delivery or incorrect commodities shipped, etc., the first step is for DOT Procurement to contact the vendor directly in an effort to resolve the problem. If the problem is not resolved satisfactorily within a reasonable time period or it becomes a recurring problem, then this problem will be reported by DOT Procurement to the DOA P&C for its involvement for resolution.

The [Vendor Complaint Form](#) is the proper vehicle for reporting complaints against vendors. Copies of this form may be obtained by clicking on the URL address provided above. If the complaint is not satisfactorily resolved by NCDOT and the Vendor, the original form and copies of all appropriate documentation are sent to DOA P&C. Once this information is received by the DOA P&C, it will be logged into the system and directed to the appropriate purchasing group. A purchaser will then work with the vendor and the agency to resolve the complaint. DOA P&C will contact DOT Procurement for additional information or to report progress in resolving the complaint.

## 11.0 TERM CONTRACTS

All goods or services covered by State Term Contracts (STC) and Agency Specific Contracts, must be ordered from the contractors listed for the specific term contract. You can find a list of all STCs on the P&C website. You can search the contracts by [Key Word Listing](#). Where applicable, we encourage and promote the use of HUB Vendors.

Exceptions to this requirement include:

1. The Term Contract is identified as a Convenience Contract (not required to be used),
2. Product or Service is available through Correction Enterprise (CE) or other mandatory resources.

## 12.0 PROCUREMENT METHODS

There are various methods of procuring goods and services. The procurement method used is based on the anticipated dollar amount of the purchase and type of good or service being procured.

### 12.1 NON-IT GOODS AND SERVICES

Non-IT goods and services shall be procured following P&C Rules and Guidelines. NC Administrative Code [01 NCAC 05 Subchapters A-D](#), the North Carolina Procurement Manual, and this agency purchasing manual provide the definitions and rules governing procurement of goods and services.

**12.1.A Values Up to \$10,000.** Requisitions valued up to \$10,000 are considered micro purchases. The use of competitive quotes or bids is preferred, whenever practical, however the use of the P-Card is authorized for these purchases. Efforts should be exercised to seek a HUB Vendor.

**12.1.B Values between \$10,000.01 and \$29,000.** Requisitions valued between \$10,000.01 and \$29,000 requires seeking two (2) competitive informal quotes, only one (1) informal quote is required if utilizing a HUB certified vendor. A contract is



required for Services in this range. State Terms and Conditions must be used for Services and as appropriate for Goods. Efforts should be exercised to seek a HUB Vendor.

12.1.C **Values between \$29,000.01 and \$50,000.** For goods and services between \$29,000.01 and \$50,000 not on a State Term Contract or other mandatory resource, competitive bids must be solicited by DOT Procurement. Advertisement can be used but is not required for this range. A minimum of three (3) quotes solicited on State documents (RFQ/IFB) for goods. Efforts should be exercised to seek a HUB Vendor. Vendor must agree to NC T&Cs.

12.1.D **Values \$50,000.01 and Over.** For goods and services over \$50,000 and not on a State Term Contract or other mandatory resource, competitive and advertised bids are required. P&C must review and approve solicitation document prior to posting and prior to award unless covered by a special delegation. Solicitations for goods and services will be posted to eVP by DOT Procurement. Efforts should be exercised to seek a HUB Vendor.

## 12.2 CONTRACTS \$1 MILLION AND \$5 MILLION (NON-IT)

Pursuant to [NC GS 143-50.1](#), solicitations that are estimated to be more than \$1 Million are subject to review and approval by the P&C Contract Management Section, to ensure they are in proper legal form, contain all clauses required by law, are legally enforceable and require performance that will accomplish the intended purposes of the proposed contract. Prior to sending to P&C's legal, the procurement must be reviewed and approved by NCDOT legal. Additionally, the Contract Management Section will assist DOT with establishing formal contract administration procedures and functions with advisement to personnel in contracting specialist roles regarding appropriate contract management and administrative techniques and activities.

Solicitations that are estimated to be more than \$5 Million are subject to collaboration with the Attorney General, for review of proposed non-competitive contracts for services.

## 13.0 PROCUREMENT SYSTEMS

DOT uses SAP and Ariba as its primary systems for requesting and completing purchases. The use of Procurement Cards (p-cards) and Direct Pay situations are secondary methods and are considered exceptions to the normal procurement process. Please contact Accounts Payable for current procurement card and direct payment policies.

## 14.0 CONTRACT TYPES

There are a variety of solicitation methods in place to use based on the type of goods and services being purchased and the estimated cost. Each method incorporates the State's Terms and Conditions. Each also assists DOT Procurement in complying with state-mandated HUB (Historically Underutilized Businesses) regulations, the purchase of recycled goods regulations, price matching preference for North Carolina resident bidders, and requirements involving ethics and integrity. DOT Procurement utilizes the templates and forms created by P&C to create solicitations. These templates and forms are updated as needed to

incorporate statutory and rule changes. Below is a table that explains the different methods. Remember, however, DOT Procurement will determine the correct solicitation method and work with the DOT Divisions and Business Units to confirm requirements, specifications, and develop the solicitation.

There are several contract types that will determine which solicitation shall be used.

Contract Types include:

- 1. Open Market Contract**
- 2. Agency Specific Term Contract**
- 3. Memorandum of Understanding (MOU).** This type of request should only be used in situations that involve agreements between DOT and another governmental agency. Exceptions should be approved by the Director of Procurement. The Procurement Office will help develop the MOU. Under this type of an agreement, competition is normally not pursued.
- 4. Personal Service Contracts.** Personal Service Contracts are for “professional” personnel whose expertise is needed only for a short-term basis (not permanent).
- 5. Consultant Contracts.** All Consultant Services, outside of Temp Solutions and Short-Term Staffing State Term Contracts must be approved by P&C and the Governor’s Office. Such services are primarily for review, analysis or advice in formulating or implementing improvements in programs or services. The request must include an endorsement letter from the Secretary of DOT and the following must be included in the business justification:
  - a. What services the Division or Business Unit desires to secure;
  - b. Why the work to be performed by the consultant cannot be reasonably accomplished by employees of the requesting agency;
  - c. Why the work to be performed relates to the proper functions of the agency;
  - d. What benefits the agency expects to receive from the consultant’s services;
  - e. What the agency estimates to be the cost of the services sought;
  - f. What potential sources of consultant services, if any, the agency has identified and; If DOT is requesting authority to contract for consulting services outside of State government, detail as to what potential sources exist in State government and why the desired services are not available from those sources.

## 15.0 SOLICITATION METHODS

DOT Procurement Office will review all requests and determine the type of competitive bid solicitation shall be used. The different type of solicitation methods available are listed in the below table.

Request for Quote (RFQ)	Invitation for Bid (IFB)
<ul style="list-style-type: none"> <li>• Informal written solicitation document that includes the State’s Terms and Conditions</li> <li>• Generally used to purchase goods and services in the small or informal range or when competition is waived</li> <li>• Needs are clear</li> <li>• Minimum specifications or scope of work are provided</li> <li>• Requests price/costs</li> <li>• Formal bid opening is not required</li> <li>• Evaluation committee not required when award method is lowest cost meeting specifications</li> <li>• Negotiations are allowed</li> <li>• Award is typically made to the lowest responsive and responsible bidder.</li> </ul>	<ul style="list-style-type: none"> <li>• Formal written solicitation document</li> <li>• Used to purchase non-IT goods and services in either the small, informal, or formal ranges</li> <li>• Needs are clear</li> <li>• Minimum specifications or scope of work are provided</li> <li>• Requests price/costs</li> <li>• Evaluation committee is not required when award method is lowest cost meeting specifications</li> <li>• Negotiations are not allowed in low cost meets specification bids</li> <li>• Award is typically made to the lowest responsive and responsible bidder unless it is a Best Value solicitation</li> <li>• Evaluation committee is required if award is not based on lowest cost meeting specifications               <ul style="list-style-type: none"> <li>• Negotiations allowed if specified in the document</li> <li>• Award is based on criteria identified in the document.</li> <li>• Factors other than cost can be considered, but cost must be a factor, and defined within the document.</li> </ul> </li> </ul>
Request For Proposal (RFP)	Best and Final Offer (BAFO)
<ul style="list-style-type: none"> <li>• Formal written solicitation document</li> <li>• Primarily used for procuring complex goods and/or services</li> <li>• Needs may not be clear</li> <li>• Scope of work and minimum specifications, if available, are provided</li> <li>• Requests cost</li> <li>• Evaluation committee is required</li> <li>• Negotiations are allowed if specified in the document</li> <li>• Award is based on criteria identified in the document. Factors other than cost can be considered, but cost must be a factor, and defined within the document.</li> </ul>	<ul style="list-style-type: none"> <li>• Not a stand-alone document. Must be used when negotiations are done.</li> <li>• Formal written solicitation document</li> <li>• Used to finalize negotiations if specified/allowed in the solicitation document.</li> <li>• Needs are usually clear</li> <li>• Tailored specifically for each Vendor; items being negotiated are provided</li> <li>• Cost may be negotiated</li> <li>• BAFOs are not publicly opened</li> <li>• Considered during the evaluation process</li> </ul>

## 15.1 SOLICITATION PROCESS FOR COMPETITIVE BIDS

The solicitation process for competitive bids encompasses several steps. These steps are managed by DOT Procurement Office and the Division/Business Unit in conjunction with P&C (if applicable). The processes differ and change from time to time for each agency, but generally include:

1. Preparation of solicitation draft,
  - Determination of appropriate contract terms and conditions,
  - Determination of Evaluation Criteria,
  - Determination of solicitation schedule (to include consideration for Q&A submissions),
2. Review and approval of final solicitation draft by DOT Procurement Office and DOT Legal, if applicable,
3. Bidding period,
  - Site Visit (if applicable),
  - Questions (written) responses, if applicable
  - Additional processes as required i.e. addenda
4. Bid Opening,
5. Administrative Review,
6. Delivery of responsive bid submissions to Division or Business Unit in a Bid Packet,
7. Evaluation period,
  - Clarification, if applicable
  - Negotiation, if applicable
  - Presentation, if applicable
  - BAFO, if applicable
8. Award Recommendation,
9. Review/Approval of Award Recommendation by DOT legal, if applicable,
10. Review/Approval of Award Recommendation by DOT Procurement Office,
11. Review/Approval of Award Recommendation by P&C, if applicable,
12. Award Processing of contract by DOT Procurement Office, and,
13. Execution of contract by DOT,
14. Notice of Award to Division/Business Unit and Vendor.

## 15.2 WAIVER OF COMPETITION

One of the basic principles of public purchasing is to obtain fair and open competition by soliciting multiple responses whenever possible. However, there are instances when competition may be waived. Specific conditions for waiver of competition for non-IT goods and services are listed in [01 NCAC 05B.1401](#). Procurement of goods and services over \$10,000 (Non-IT) **MUST INCLUDE** competition unless an approved

Waiver of Competition is attached to the purchase or the procurement is being made from a HUB certified vendor. The DOT Procurement Waiver of Competition Justification Form (Non-IT requests) must be completed and submitted to DOT Procurement Office for each waiver of competition request or the required documentation provided to DOT Procurement Office that will document a verified acceptable waiver condition.

**Note:** For procurements over \$10,000 and below the Small Purchase Threshold as long as multiple offers have been sought or the offer is from a HUB certified vendor it will not be considered a Waiver of Competition.

#### **1. Determination/Approval**

Determination to waive competition is the responsibility of DOT Procurement Office.

- a. When the purchase is within DOT's delegation, DOT Procurement Office will determine that competition may be waived and document the appropriate condition(s) justifying the waiver of competition.
- b. When the purchase is outside of DOT's delegation, DOT Procurement Office will determine that competition may be waived and seek approval from P&C.

#### **2. Brand Specific (Limited Competition) Request**

Brand Specific rationale can be used when the requirement can be met only by the exact specifications offered by a particular piece of equipment made by the manufacturer. A Brand Specific Justification must explain why the product is singularly able to meet the requirements of the user and most conclusively support the determination that no other product can fulfill the user's needs. Common examples include standardization and compatibility with existing equipment/systems or where a specific product is required to complete an ongoing task. DOT Procurement Waiver of Competition form must be used.

#### **3. Sole Source Request**

Vendor Specific or 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. As part of a Sole Source Request, the Vendor must provide a memo (on company letterhead) to DOT Procurement Office affirming that they are the sole supplier of the goods or services requested, affirm they do not have resellers, and state if the good/service is proprietary in nature (such as patented features). It is possible for a Vendor to be the only supplier due to distribution rights. Sole source requests should be an exception as DOT has a strong preference for competition. Required documentation includes market searches and completion of DOT Procurement Waiver of Competition form.

### 15.3 SELECTION METHODOLOGY

The solicitation must be clear as to which method is being used. When using the Best-Value tradeoff method, the solicitation must state that it is in the State's best interest to award to other than the lowest priced offer or other than the highest technically qualified offer.

The solicitation must clearly lay out the evaluation factors in descending order of importance, generally starting with the most important criterium and must include past performance references and price.

15.3.A Unless otherwise stated, contract awards are generally based on the best bid meeting the specifications (most advantageous to the State) at the lowest cost. This is generally an acceptable approach for well-defined requirements.

15.3.B For more complex equipment and/or services, it is more appropriate to use the Best-Value Tradeoff method.

## 15.4 EVALUATION METHODOLOGY

When evaluating proposals under a Best Value Tradeoff process, evaluators must clearly articulate their evaluations, to include strengths, weaknesses, items for clarification and items for negotiations. While a point system may be used, an adjectival or a color rating may be preferable as it provides more flexibility, as follows:

### 1. Administrative Review

The evaluation team should determine responsiveness prior to evaluating a proposal:

Determination	Definition
Deficiency	A material failure of a proposal to meet a government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level
Items for Negotiations (IFNs)	Proposal areas that require further negotiation in order to be scored allowing the contractor to provide additional information/clarification

or

Color Rating	Definition/description
Green	Proposal meets the minimum requirements
Red	Proposals does not meet requirements of the solicitation and, contains one or more deficiencies and is not awardable as proposed

### 2. Technical Rating Method – Adjectival Rating

The evaluation team will then evaluate responsive vendors on each criterion based on a technical rating scale such as:

Evaluative	Definition
Significant Strength	A proposal area that greatly enhances the potential for successful performance or contributes significantly toward exceeding the contract requirements in a manner that provides additional value to the Government
Strength	A proposal area that enhances the potential for successful performance or contributes toward exceeding the contract requirements in a manner that provides additional value to the Government
Weaknesses	A flaw in the proposal that increases the risk of unsuccessful contract performance

or

<b>Adjectival Rating</b>	<b>Definition/description</b>
Outstanding	Proposal indicates an exceptional approach and understanding of the requirements and contains multiple strengths
Good	Proposal indicates a thorough approach and understanding of the requirements and contains at least one strength
Acceptable	Proposal indicates an adequate approach and understanding of the requirements
Marginal	Proposal has not demonstrated an adequate approach and understanding of the requirements

Vendor experience/reference information should be evaluated both in terms of currency of the information provided and relevance to the requirement. An offeror may have excellent past performance history; however, if the effort was not relevant to the requirement being competed, the information is not helpful to the evaluators

Evaluation of Vendor Past Performance – Please note that if you want to consider past performance, then you should include past performance metrics i.e. no more than 3 complaints in last year or no failed contracts, etc. in the requirement section of solicitation document.

#### **1. Vendor Experience Relevancy Rating Method**

<b>Adjectival Rating</b>	<b>Definition/description</b>
Very Relevant	Present/past performance effort involved essentially the same scope and magnitude of effort and complexities this solicitation requires
Relevant	Present/past performance effort involved similar scope and magnitude of effort and complexities this solicitation requires
Somewhat Relevant	Present/past performance effort involved some of the scope and magnitude of effort and complexities this solicitation requires
Not Relevant	Present/past performance effort involved little or none of the scope and magnitude of effort and complexities this solicitation requires

#### **2. Vendor Experience Confidence Assessment Rating**

<b>Adjectival Rating</b>	<b>Definition/description</b>
Substantial Confidence	Based on the offeror's recent/relevant performance record, the Government has a high expectation that the offeror will successfully perform the required effort
Satisfactory Confidence	Based on the offeror's recent/relevant performance record, the Government has a reasonable expectation that the offeror will successfully perform the required effort
Neutral Confidence	No recent/relevant performance record is available, or the offeror's performance record is so sparse that no meaningful confidence assessment rating can be reasonably assigned. The offeror may not be evaluated favorably or unfavorably on the factor of past performance
Limited Confidence	Based on the offeror's recent/relevant performance record, the Government has a low expectation that the offeror will successfully perform the required effort
No Confidence	Based on the offeror's recent/relevant performance record the Government has no expectation that the offeror will be able to successfully perform the required effort

Vendors must identify their key personnel who will be working on NCDOT project if the information is requested. The Vendor may not change the identified key personnel without NCDOT approval.

#### 15.5 COMPETITIVE RANGE

At the conclusion of the evaluation, the evaluation team may set a competitive range to include only the most highly qualified vendor proposals. Once the competitive range has been determined, the evaluation team, in conjunction with the DOT Procurement Office, shall use the results of the evaluation and enter into negotiations.

Negotiations offer the opportunity to change the content and pricing after bid opening. Negotiations should be based on the items for negotiations identified by the evaluators. Upon conclusion of the negotiations, the State issues a Request for Best and Final Offer (BAFO) to formally document the results of the negotiations. Final award recommendations will be made based on the totality of the documentation, to include negotiation notes, BAFOs and responses to BAFOs.

#### 16.0 PROCUREMENT LEADTIMES

Sufficient lead-time must be given to solicit bids, request quotes, complete evaluation, place the order and ensure timely delivery. The following lead times are at the point of DOT Procurement Office receiving the request, for the type of procurement to the Order Point (in business days).

NOTE: Leadtime's are based on the receipt of a complete procurement package.



## NCDOT Purchasing Lead Times

Procurement Type	Description	Estimated Lead Time	Notes
<b>Micro Purchase</b>	Non-IT (up to \$10,000.01)	If P-Card not used:  3 -5 Days For Goods  8-15 Days For Services (Contract)	Requisitions valued up to \$10,000.01 are considered micro purchases. The use of competitive quotes or bids is preferred, whenever practical, however the use of the P-Card is authorized for these purchases. Efforts should be exercised to seek a HUB Vendor. RFQ/IFB may be required for Services.
<b>Small Purchase</b>	Non-IT (\$10,000.01-\$29,000)	3 -5 Days For Goods  8-15 Days For Services (Contract)	One (1) of the two (2) required quotes sought should be a HUB Vendor. If purchasing from a HUB only one quote is required. RFQ/IFB/RFP required for Services. Approved Waiver, if applicable
<b>Informal Purchase</b>	Non- IT – (\$29,000.01-\$50,000)	8-15 Days	Minimum of three (3) quotes solicited is required if competition is available. Approved waiver required if competition is not available. Vendor must agree to NC T&Cs.

<b>Formal Purchase - IFB</b>	Non-IT - (\$50,000.01 +) Solicitation involving a defined scope of work, requirements of specification, that require pricing	28- 90 Days	Normally lowest cost meeting Specification. Approved waiver required if competition is not available. Vendor must agree to NC T&Cs.
<b>Formal Purchase - RFP</b>	Non- IT – (\$50,000+) Solicitations that are complex in nature and are requesting solutions for a project	90 – 180 Days	Normally Best Value due to the complexity of project, evaluation, presentations, and negotiations. Approved waiver required if competition is not available. Vendor must agree to NC T&Cs.

## 17.0 PROTEST OF AWARD

A protest is a process by which a vendor wishing to contest an award by the State can present for consideration their request for relief. Protests are governed by 01 NCAC 05B .1519. A vendor initiates a protest by sending a written request to protest the award to the correct receiving entity, based on the contract amount. The protest letter must be received within thirty calendar days of the award, or the protest is untimely and will not be heard.

Per 01 NCAC 05B. 1519, “Vendors” are permitted to submit a protest. “Vendor” is defined as “a contractor, supplier, bidder, company, independent contractor, firm, corporation, partnership, individual or other entity submitting a response to a Solicitation.” 01 NCAC 05A .0112. Thus, a vendor must have submitted a response to the procurement at issue in order to submit a protest.

Regardless of the contract value of the award being protested the Procurement Director will notify all appropriate division/business units of the receipt of protest. After review of the submitted written protest details the Procurement Director may meet with the appropriate end users and legal personnel to discuss the protest merit.

### 17.1 PROTEST PROCESS UNDER DELEGATION

Protests for contracts valued under an agency’s general delegation shall be heard by the agency. The below process shall be followed:

- 1) Vendor submits a written request for a protest meeting to the Procurement Director within thirty calendar days from the date of award. The vendor's request shall contain the reasons why it has a concern with the award and any supporting documentation.

2) Within five calendar days from receipt of the protest letter, the Procurement Director shall submit a copy to the SPO.

3) **If a meeting is refused:** Within ten calendar days from the date of receipt, the Procurement Director shall notify the vendor in writing that its protest met one of the following conditions:

- a) It was not timely.
- b) It did not contain required information.
- c) It was meritless, and a meeting would have served no purpose. A copy of the executive officer's decision letter shall be forwarded to the SPO.

4) **If a meeting is granted:** The meeting must be scheduled within thirty calendar days from receipt of the protest, unless mutually agreed.

5) Within ten calendar days after the meeting, the executive officer shall notify the vendor of the results of the protest meeting and the appeal rights under Article 3 of G.S. 150B. A copy of the executive officer's decision letter shall be forwarded to the SPO.

6) If there is any further administrative or judicial review of the award, the purchasing agency shall notify the SPO in writing.

#### 17.2 PROTEST PROCESS OVER DELEGATION

Protests for contracts that exceed an agency's delegation shall be heard by the SPO. The below process shall be followed:

1) Vendor submits a written request for a protest meeting to the SPO within thirty calendar days from the date of award. The vendor's request shall contain reasons why it has a concern with the award and any supporting documentation.

2) **If a meeting is refused:** Within ten calendar days from the date of receipt, the SPO shall notify the vendor in writing that its protest met one of the following conditions:

- a) It was not timely.
- b) It did not contain required information.
- c) It was meritless, and a meeting would have served no purpose.

3) **If a meeting is granted:** The meeting must be scheduled within thirty calendar days from receipt of the protest, unless mutually agreed.

4) Within ten calendar days after the meeting, the SPO shall notify the vendor of the results of the protest meeting and the appeal rights under Article 3 of G.S. 150B.

5) If there is any further administrative or judicial review of the contract award, the SPO shall notify the Secretary in writing.

#### 17.3 PROTEST MEETING

Protest meetings are typically about one hour in length, but the duration may be adjusted due to the

complexity of the issues raised in the bid protest letter. The protest meeting is an informal, non-adversarial meeting in which the protesting vendor has the opportunity to further explain its position to the state. The awarded vendor may attend the protest meeting and provide a response to the protest allegations but is not required to do so. Each party will be given a set period of time in which to present their side. Because it is an informal process, not a hearing, evidence does not need to be presented, and witnesses do not need to be called. Counsel may attend and present on behalf of the protesting or awarded vendor but is not required to do so. The bid protest meeting is an opportunity for the protesting vendor to further explain its position, for the awarded vendor to provide any comments in response, and for the state to ask questions to further clarify the issues. The protesting vendor and the awarded vendor shall direct their comments to the state and not to one another. The state is not required to defend its position or answer vendor questions in the protest meeting.

## 18.0 FILE CLOSEOUT CHECKLIST

It is the responsibility of each DOT Contract Administrator and/or Procurement Specialist to ensure that the work under the purchase agreement/contract has been completed and the agreement is ready for Closeout prior to final payment. This checklist can serve as a tool to assist the agency during that process. The Closeout file should contain all necessary documentation relative to the agreement at the time of Closeout.

Final payment shall never be made until all work is complete and all deliverables are received and accepted.

The purpose is to verify that both parties to the contract have fulfilled their contractual obligations and there are no responsibilities remaining. In addition, contract Closeout is the time to assess the success of the contract and determine if there are any lessons learned for future contracting.

Please remember that Federal ID Numbers and Social Security Numbers are not public information and should be destroyed, made confidential, or redacted from the file.

To initiate the Closeout process, the agency should first determine that the contractor has satisfactorily performed all required contractual obligations. A contract is ready for Closeout when:

1. All deliverables, including reports, have been delivered and accepted by the agency. Contract administrators should compare actual performance against performance measures, goals and objectives to determine whether all required work has been completed;
2. All monitoring issues have been resolved;
3. All property inventory and ownership issues are resolved including disposition of any equipment or licenses purchased under the contract;
4. Final acceptance from the Project Manager has been received (if applicable);
5. Contractor is aware of and in compliance with records retention requirements and a plan has been developed for contract file maintenance;
6. Any deficiencies found as part of the Closeout process are documented and communicated to all appropriate parties; and
7. Final payment has been made.

## 19.0 PROCUREMENT FILE MAINTENANCE

**A procurement file should be created for each procurement (equipment, goods or services) transaction. Each file should contain all documents relative to the procurement of equipment, goods or services. All files need to be reviewed by the Purchaser to ensure that each contains the following soft/hard copy documents, as applicable:**

Procurement file:

1. Required approval to proceed with acquisition
2. Original offers if in writing, or written documentation of verbal offers received (confidential data meeting State requirements is to be removed and filed in accordance with policy on Confidentiality)
3. Selection justification or reason for cancellation
4. Worksheets/evaluations
5. Distribution list, if used
6. Written justification for waiver or emergency purchase
7. Tabulation of offers received
8. Copy of purchase order(s)
9. Related correspondence
10. Reason(s) for receiving only one offer in response to a solicitation
11. P&C contract certification, if applicable
12. BAFOs
13. Negotiated contracts
14. Verification that debarment status was checked
15. Did Reciprocal Preference apply, and if so, how
16. Reasons for not accepting technical proposals
17. Approval from applicable Purchase Order/Contract Award Authority;
18. Executive Order 50 documentation (goods only)

After award of contract all material in the file, except appropriately marked confidential information, becomes public record. 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.

If assigned an IFB or RFP number, the closed file shall be filed in the appropriate bid or proposal file area.

## 20.0 PUBLIC RECORDS REQUESTS

The public may request to see an awarded or canceled procurement. This is formally called a public records request. The State is required to make available the procurement files as public records, however there are general procedures to follow concerning this request:

1. The public must send its request through NCDOT Communications. NCDOT Communications will notify the Procurement Director of any procurement public record request.
2. All documents marked "Confidential" must be removed from the file prior to submitting to NCDOT Communications.
3. NCDOT Communications will provide the submitted procurement file to the requester.
4. Pricing or total cost awarded is always public record and cannot be designated as "Confidential," ever.
5. If a procurement request is canceled and it is anticipated to be rebid in the near future, then the canceled procurement file shall remain confidential until after an award is made.

## 21.0 GLOSSARY

**Addendum:** Form used to make changes or corrections to a bid solicitation or answer vendor questions submitted prior to the closing date of the bid solicitation.

**Agency:** All departments, institutions, boards, commissions, universities, or other units of the State (including the Division of Purchase & Contract), and community colleges and local school administrative units, unless specifically exempted herein by reference.

**Agency Specific Term Contract:** A contract administered by the Department of Transportation that enables the end user to purchase commodities or services at a set price for a pre-determined period of time. An Agency Specific Term Contract results from a contract awarded on the basis of the competitive bidding process. Most Agency Specific Contracts are for a 36-month period but can be awarded for longer or shorter periods of time. If the contract value exceeds \$50,000.00, it must be approved and may be advertised by the DOA P&C.

**Best and Final Offer (BAFO):** BAFO is a formal document that is used to finalize negotiations with a vendor. Negotiations can be used in single source situations or with the best value trade-off method of procurement.

**Best Value Procurement:** The terminology used in G.S.143-135.9 that allows the selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

**Outline Agreement (Blanket Purchase Order)** – Outline agreements have a very limited use. They are for a period of no more than three years and are governed by either quantity or dollar value. This enables the DOT to issue Internal Purchase Orders (IPO) against the agreement to purchase a commodity(ies) at a set price for a predetermined period of time.

**Brand Specific Justification** – A detailed explanation stating reason(s) your particular commodity(ies) must be produced by a particular manufacturer. The explanation should give specific examples of why an equivalent commodity meeting the same specification will not meet your needs.

**Bulk Order Purchasing** – Orders for a particular item are combined together and bid out to several vendors in order to obtain discount prices.

**Commodity:** Any equipment, materials, or supplies, also referred to in this manual as goods and items. It does not include services or printing.

**Competition:** The fair and open solicitation of offers from more than one source; the receipt of offers from more than one source. Competition must be reasonable and adequate for the amount of the expenditure and the specific requirement.

**Consultant Contract:** A contract to have 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 advice in formulating or implementing improvements in programs or services. This may include (by way of illustration, not limitation) the organization, planning, directing, control, evaluation and operation of a program or agency. Consultant contracts must be approved by the Governor's Office.

**Contract Administration:** Contract administration begins after award of the contract. Its purpose is to assure that the contractor's and agency's total performance is in accordance with the terms and conditions of the contractual agreement.

**Contract Administrator:** Monitors progress to verify that services are performed as required and that all deadlines are being met. He/she may also establish reporting requirements that need to be followed by the participants.

**Contract Amendment** refers to any modification or alteration to the terms and conditions of a fully executed contract, Memorandum of Agreement or Memorandum of Understanding.

Examples of a modification or alteration include (by way of illustration, not limitation) no-cost time extensions, increases in services, increases or decreases in the contract amount. Once a contract's expiration date has passed, the contract cannot be amended because a contract no longer exists.

**Contract Monitoring:** Contract monitoring is a key component of contract administration and is the key to enforcing the contract. The goal of contract monitoring is to ensure the contract is satisfactorily performed and the responsibilities of both parties are properly discharged. An effective contract monitoring system mitigates risk, with risk defined as the probability of an event or action having an adverse effect on a state agency. In addition, effective contract monitoring minimizes or eliminates problems and potential claims and disputes

**Contractual Service:** When an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a State agency for compensation from agency funds. The services may include (by way of illustration, not limitation) services such as,

maintenance of buildings or equipment, auditing, film production, employee training and food service, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to Consultant Contracts shall be applicable).

**Delegation:**

- **General Delegation:** The authority granted by P&C to the Department to handle purchases of \$50,000 or less.
- **Special Delegation:** The authority granted by P&C to the Department to handle a specific or special purchase, when the purchase price is over \$50,000. (Examples include, but not limited to, pipe, asphalt, aggregate, etc.). A Special Delegation does not exempt a Department from any other purchasing rules other than the express scope in the delegation.

**Department:** refers to the Department of Transportation.

**Direct Purchase Contracts:** There are no Direct Purchase Contracts. There is a direct payment for commodities through the use of the State PCard for the over the counter purchase of certain approved commodities less than \$10,000.00.

**Division of Purchase and Contract:** A Division of the Department of Administration responsible for administering the State's procurement program for acquisition of goods and services.

**Effective Dates of Contract:** Refers to the date services being contracted for are to begin (typically the date the contractor is to begin work) and the date the work is to be finished. The total time period of a contract may not exceed three (3) years without prior approval (before the contract is entered into by DOT) from DOA P&C. A contractor must not begin work until a fully executed contract is in place.

**Emergency:** Contracts issued for the purchases of commodities, printing, or services in the open market. An Emergency is 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.

**General Delegation:** The authority granted by the SPO for an agency to handle purchases made under a certain dollar amount, in accordance with the guidelines in this manual.

**Grant Contract:** refers to a contract issued as a result of an award administered through DOT for which DOT was given grant making authority by the funding source.

**Grant Request for Applications (RFA)** refers to a solicitation document issued by DOT Procurement to applicable entities as defined by the funding source (i.e. government, non-profit, local government, university, for profit, etc.) requesting proposals to address specific issues required to meet the specifications of a grant.

**Historically Underutilized Business (HUB):** Any one of the following minority-owned businesses: Black, Hispanic, Asian American, American Indian, Female, Disabled, Disadvantaged (See NCGS 143-128.4).

**Invitation for Bids (IFB):** A formal solicitation document, used to seek competition for easily defined goods and simple services. This document or the RFP is required to be used for competitive



procurements over \$50,000.

**Lease:** A contract conveying from one to another the use of a commodity for a designated period in return for established periodic payments. The lease normally does not contain an option, or an obligation, to purchase

**Maintenance Contract:** Refers to arrangements for routine servicing of machinery such as office equipment, telephone systems, etc.

**Memorandum of Agreement or Memorandum of Understanding** refers to instruments negotiated between the Department and other agencies of state, federal and local governments and private non-profit entities to provide for an exchange of services or to describe the conditions under which one agency will provide services for another. These agreements may or may not provide for payment for services rendered. MOAs or MOUs are signed by the parties to the agreement.

**Negotiation:** The act of making a purchase when all offers have been rejected, or when there is justification for waiving the competitive process, or when an emergency or pressing need arises.

**Offer:** This term may refer to a bid, proposal or offer submitted in response to an Invitation for Bids, Request for Proposals, Negotiation, or Request for Quotes.

**Offeror:** Company, firm, corporation, partnership, individual, etc. submitting a response to a solicitation document or in response to a negotiation.

**Open Market Contracts:** Any contract where the requirement is openly advertised and whose award is based upon the competitive bidding process where offers are solicited, received, evaluated and awarded the lowest responsive and responsible bidder.

**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 (also see Emergency).

**Procurement Card (Pcard)** - A credit card issued to an individual in a division which enables the user to purchase goods and services without the issuance of a purchase order and without using the direct payment process.

**Request for Information (RFI):** The RFI is an informal document used to request information from vendors about products or services when an agency does not have enough information readily available to write an adequate solicitation document. The RFI should provide as much information as possible to define the type of information that is being sought. While information gathered from vendors' responses to the RFI may be used to enhance the agency's future procurement, the RFI should state that it is not a request for offer and that no award will result. Since the RFI is not a solicitation for procurement, the State's terms and conditions should not be included in the document.

**Request for Proposals (RFP):** A formal solicitation document typically used for seeking competition and obtaining offers for more complex services or a combination of goods and services used for competitive procurements over \$50,000.00.

**Request for Quotes (RFQ):** A solicitation document normally used for non-advertised competitive procurements.

**Responsible Offeror:** An offeror who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability to assure good-faith performance.

**Responsive Offeror:** An offeror who has submitted an offer which conforms in all material respects to the solicitation document.

**Service Contract:** Any agreement in which an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a state agency for compensation involving an expenditure of public funds. The services may include (by way of illustration, not limitation) services such as maintenance of buildings or equipment, auditing, film production, employee training and food services, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to consultants shall be applicable).

**Small Purchase:** The purchase of a good or service for \$29,000 or less.

**Sole Source:** Refers to those purchases where, after conducting market research, only one supplier could be identified to meet the need. Usually, these are unique products that can only be purchased from one supplier/manufacturer. This type of purchase requires prior approval from DOA-P&C when the purchase is over \$50,000.00. (See 01 NCAC 05B .1401).

**Solicitation Document:** A written Request for Quotes, Request for Proposals, Invitation for Bids, or a Request for Information.

**Specification:** A detailed list indicating all technical data (dimensions, weight, color, etc.) for a commodity.

**Statewide Term Contract:** A contract handled by DOA-P&C for all agencies, unless exempted by statute, rule, or special term and condition specific to that contract.

**Sub-Recipient:** A Non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Term Contract:** A binding agreement between purchaser and seller to buy and sell certain commodities, printing, or services at certain prices and under stipulated terms and conditions. A contract generally intended to cover all normal requirements for a commodity or contractual service for a specified period based on estimated quantities only. Sometimes referred to as a "requirements contract" or an "indefinite quantity contract".

**Vendor:** A dealer, distributor, merchant or other seller providing goods or services that is required for the conduct by State agencies or programs. These goods or services may be for an organization's own use or for the use of beneficiaries of State agencies or programs.

**Waiver of Competition:** Refers to a process by which contracts are issued without seeking competition. (See 01 NCAC 05B .1401).

## 22.0 ACRONYMS

**AG-** Attorney General

**BAFO-** Best and Final Offer

**DOA-** Department of Administration

**DOT-** Department of Transportation

**EO-** Equal Opportunity

**FOB-** Freight on Board

**G.S.-** General Statute

**HUB-** Historically Underutilized Business

**IFB-** Invitation for Bids

**NCAC-** North Carolina Administrative Code

**NIGP-** National Institute of Government Purchasing

**OSBM-** Office of State Budget Management

**P&C-** Division of Purchase and Contract

**RFI-** Request for Information

**RFP-** Request for Proposals

**RFQ-** Request for Quotes

**SPO-** State Purchasing Officer

**SWUC-** Statewide Uniform Certification

**T & M-** Time and Materials

**UNSPSC-** United Nations Standard Products and Services Code