



ECSU

ELIZABETH CITY STATE UNIVERSITY

FOUNDED 1891

PURCHASING MANUAL

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GENERAL INFORMATION

❖ PURPOSE

Elizabeth City State University (ECSU) is a state university subject to North Carolina laws governing public entities and must adhere to these rules when furthering the mission of the University. The Purchasing Department at ECSU is an extension of the North Carolina Division of Purchase and Contract (P&C) with delegated authority to coordinate all procurement activities for the campus.

❖ MISSION

Purchasing Department exists to support the University in all its procurement related needs while always upholding ECSU's core values. Our goal is to provide excellent customer service to campus departments, vendors, and the public when contracting for the purchase of goods and services. As stewards of public funds, we work to deliver quality results that are in compliance with all state laws and regulations governing procurement, while also taking into account sound business practices that are fair, open, and ethical.

❖ CODE OF ETHICS

Purchasing personnel employ the core values of the University in the performance of their daily job functions. All employees maintain the highest ethical standards in the conduct of business on behalf of ECSU and the State of North Carolina.

WE WILL ALWAYS:

- ❖ Engage in fair, ethical, and legal business practices that promote ECSU's mission.
- ❖ Grant all competitive offers equal consideration to the extent State regulations and the established policies of the University permit.
- ❖ Abide by the North Carolina General Statutes and Administrative Code governing procurement.
- ❖ Conduct business with potential and current suppliers in an atmosphere of mutual respect and integrity.
- ❖ Strive to obtain the maximum value for every public dollar spent.
- ❖ Decline personal gifts or gratuities.

❖ CONFLICT OF INTEREST

It is the responsibility of each staff member in Purchasing to take all appropriate steps to ensure that the University does not knowingly enter into any purchase commitment which could result in a conflict-of-interest situation.

❖ AUTHORITY

The North Carolina Division of Purchase and Contract (P&C) was established by the General Assembly as part of the state's Department of Administration. P&C establishes procedures for acquiring commodities and services, along with

prescribing forms, consistent language, terms and conditions, and advertising requirements applicable to all agencies for procurement actions. The procedures, forms, consistent language, terms and conditions, and advertising requirements shall be established by taking into consideration market conditions, trends, legal requirements, and any other factors determined to be in the State's best interest. P&C administers the General Statutes

143-48 through 143-63.2 and the Administrative Code, Chapters 05A through 05D, which govern Purchases and Contracts.

❖ DELEGATION

The Purchasing Office is the centralized campus department given authority by P&C to acquire products and services on behalf of ECSU in accordance with the North Carolina procurement laws. The State requires that all purchases adhere to established procurement laws regardless of the source of the funds.

The University's delegated purchase limit is \$100,000 for products and services, and any purchase request that exceeds that amount will be sent to P&C in Raleigh for further processing and approval. There are occasions where the Purchasing Office can request a special, one-time, increased delegation to coordinate the purchase on campus and those requests are handled on a case-by-case basis.

DEPARTMENTAL FUNDS

The University designates budgetary allotments to colleges, departments, and its agencies. The department is responsible for the expenditure of these funds and the initial approval for any purchase is at the departmental level.

GRANTS

Spending of budgeted funds from grants or contracts must receive initial authorization from the Principal Investigator or Project Director. Grant fund expenditures are subject to the same North Carolina procurement laws as expenditures from State funds.

CONTRACTS

The Purchasing Office has the approval responsibility for all purchase contracts entered into by the University. University personnel must not sign any contract documents unless they are specifically authorized to do so by Regulations on the Review and Execution of University Contracts Policy #1000.1. No contracts will be signed prior to a complete review of the terms and conditions.

Materials purchased with university funds are the property of the State and not intended for personal use, therefore, use of university supplies or equipment for personal benefit is not permissible. State and University policy prohibit the Purchasing Office from entering into any purchase contracts for the personal use or gain of employees. All materials purchased by or in the name of the University remain the property of the State until consumed or disposed of through approved surplus property procedures.

PURCHASES CHARGED AGAINST UNIVERSITY FUNDS THAT ARE MADE CONTRARY TO UNIVERSITY POLICIES MAY BE THE PERSONAL RESPONSIBILITY OF THE INDIVIDUAL PLACING THE ORDER.

❖ COMPLIANCE

ECSU is subject to compliance audits conducted by P&C to ensure all procurement actions are processed in accordance with established rules. The actions taken by the Purchasing Office when processing departmental requests are all aimed at adhering to the state's procurement rules. The goal of the compliance audit is to receive zero findings or citations for not following the State's rules.

ORGANIZATION

The Purchasing Department at ECSU is a Division of Business and Finance and reports to the Vice Chancellor for Business and Finance. It is divided into three sub-departments: the Purchasing Office, Central Receiving, and Surplus Property. The Purchasing Office is located on the second floor of the Marion D. Thorpe Building.

❖ PURCHASING OFFICE

The Purchasing Office is responsible for issuing official purchase orders and coordinating solicitation processes to meet the needs of campus departments. The University employs two Purchasing Agents, and these agents are assigned to assist with all procurement needs.

❖ CENTRAL RECEIVING

Central Receiving incorporates the functions of receiving packages, coordinating returns, warehousing supplies, and managing the surplus property program. Vendors may provide desktop delivery direct to departments, but for those who only deliver to Receiving, their staff will distribute items to the requesting departments.

❖ SURPLUS PROPERTY

Surplus Property staff are responsible for disposing of surplus materials in accordance with the rules and regulations of both the State of North Carolina and the University.

Surplus Property that can be used by another department is transferred to that department upon completion of the transfer asset form. Discarded surplus property will be sold if it's in good condition or trashed if approved by the State Surplus Property Officer. If approved as trash, the department is responsible for disposal.

POLICIES & PROCEDURES

❖ NORTH CAROLINA TERM CONTRACTS

The State solicits competition and enters into term contracts with vendors to acquire favorable pricing for many commonly used goods and services. These contracts are available for use by all State agencies and do not require additional bidding at the University level. A vendor under a term contract is contracted only for the goods or services listed on that contract and not necessarily for all items or services offered by that vendor.

Many of these term contracts are mandatory use by all State agencies and the University is required to purchase the contracted items from the specified vendors. As it applies to the UNC system, these mandatory contracts are to be used whenever possible unless the item is available for a lower, delivered cost than is offered on the contract. NCGS 116-13(b) allows for the purchase of a contracted item from a non- contract vendor if the item cost, including delivery, is less than available on a mandatory State term contract.

The State also offers many term contracts that are a convenience for State agencies, but use is not a mandatory requirement. The University encourages use of these contracts as well because the competition rules of the State have already been satisfied and additional bidding is not required. Contact your Purchasing Agent to inquire about State term contracts and which ones are mandatory use.

Information about the items on various State contracts is found at: [North Carolina Term Contracts](#).

❖ CONSORTIUM CONTRACTS

The University is a member of multiple purchasing consortia and has access to term contracts established by these agencies. Contracts that have been established by these agencies as the result of a competitive bidding process may be used by campus departments after they have been reviewed by the Purchasing Office and pricing has been determined to be advantageous to the state. Examples of these agencies are The Educational and Institutional Cooperative (E&I), Omnia Partners, Sourcewell, and NASPO Value Point. Contact the Purchasing Office with questions or if you require additional information.

❖ ECSU CONVENIENCE CONTRACTS

When there is no North Carolina state contract available for the routine purchase of particular goods or services, the University will solicit competition and enter into convenience contracts with vendors for these items or services. The Purchasing Office will compile specifications or the scope of work and issue solicitations that will result in multi-year, convenience contracts available for use by all campus departments. A vendor under a convenience contract is contracted only for the goods or services listed on that contract and not necessarily for all items or services offered by that vendor.

Contact the Purchasing Office with questions about use of these contracts, or to request a solicitation to establish a contract for particular commodities or services.

❖ SMALL DOLLAR PURCHASES

The North Carolina Administrative Code defines small dollar purchases of goods and services as those that do not exceed \$25,000 and are not available on a North Carolina State Term Contract. While formal quotes are not required for these requests, it is helpful when they accompany a requisition entered into Vikings Shoppes. If a quote has already been secured for a commodity or service, it should be attached to the requisition to enhance the clarity of the request. Purchasing Agents will be happy to secure written quotes whenever needed by the using campus department.

Generally, standard requests not covered by a State Term Contract that do not exceed \$25,000.00 will not require competition if the price is determined to be fair and reasonable, and purchases can be made from the supplier of the end user's choice. However, purchases must be distributed equitably among qualified suppliers, and sound business practices should still be observed to ensure the price received from the supplier is fair and reasonable.

Please note that it is not permissible to divide requests into multiple, smaller requests with the intent of circumventing the State's competition requirements.

SMALL DOLLAR INFORMATION TECHNOLOGY (IT) REQUESTS

The North Carolina Administrative Code related to IT Procurement defines small dollar IT related purchases, including software, as those that do not exceed \$25,000 and are not available on a North Carolina State Term Contract. Per NCAC 06B.0301 (c) and further stated in the state's Division of IT Purchasing Manual, sections 3.3 and 3.5, these purchases do not require competition be sought. This rule applies to IT related purchases and is applied to IT related purchases by all campus departments, not simply those procured by Viking Shoppes. The procedures listed below state the procurement process to be followed for small dollar IT purchases, but do not supersede or eliminate internal restrictions or review requirements put in place by Viking Shoppes.

- The campus department will determine their need for the IT related goods or services, including software, and estimate the total cost.
- If the total cost for the aggregate need does not exceed \$25,000, the small dollar IT procurement rules will apply. However, if the total cost exceeds that threshold, a competitive solicitation or competition waiver justification will be required.
- Departments are encouraged, but not required, to collect two or three written quotes to determine the best value for small dollar IT purchases.
- The department will enter a requisition onto the procurement system (Viking Shoppes) to the preferred supplier and attach any supporting documentation.
- The Purchasing Office will review the request and alert IT department if review and/or approval is necessary for software or hardware products.
- After all reviews are complete, the Purchasing Office will add an internal note referencing NCAC 06B.0301, approve the request, and a purchase order will be issued

Please note that it is not permissible to divide requests into multiple, smaller requests with the intent of circumventing the State's competition requirements.

INFORMAL SOLICITATIONS-REQUESTS \$25,000.01-\$100,000

At least three written quotes are required for requests that exceed \$25,000 and the Purchasing Office will work with departments to assist in finding multiple sources of supply for goods and services. Departments are welcome to solicit quotes from suppliers on their own and these quotes should be forwarded to the Purchasing Office when the requisition is entered into Vikings Shoppes so that they can be maintained with the procurement file. Per State procurement rules, the purchase must be made from the lowest quoting offeror meeting requirements. The Purchasing Office will coordinate the informal bid process, which also includes having the awarded vendor complete the State's standardized Request for Quote (RFQ) document where they are required to agree to the State's terms and conditions.

Please note that it is not permissible to divide requests into multiple, smaller requests with the intent of circumventing the State's competition requirements.

FORMAL SOLICITATIONS-REQUESTS OVER \$100,000

Purchase requests that exceed \$100,000.00 require formal soliciting of offers coordinated by the Purchasing Office.

The State of North Carolina provides the standard templates and all terms that must be included in every formal Invitation for Bid or Request for Proposal issued by ECSU. The end using department will provide all specifications, requirements, and scope of work, as applicable, to the Purchasing Office for use in the construction of the document. The Purchasing Office staff will customize the document with the specifications or scope of work provided by the department and present a finalized version for review prior to advertising the requirement to the public.

The solicitation document will be advertised on the State of North Carolina's Interactive Purchasing System (IPS) website <https://www.ips.state.nc.us/ips/> Formal solicitations must be advertised for a minimum of ten (10) calendar days, but typically are advertised for two (2) to four (4) weeks, depending on the complexity.

Throughout the formal solicitation process, from the time the document is issued through the time the award is made, all contact with the vendors must be coordinated by the Purchasing Office. The end using department should have no direct interaction with the vendors relating to the solicitation.

Vendors must complete, sign, and return the pages from the formal solicitation document that require vendor input along with any other noted documentation in order to be considered for award; simply providing a quotation is not an acceptable response and cannot be considered for award.

Please note that it is not permissible to divide requests into multiple, smaller requests with the intent of circumventing the State's competition requirements.

TYPES OF FORMAL SOLICITATIONS

SEALED INVITATION FOR BID

- Specifications are provided by the end using department and the formal document is compiled by the Purchasing Office.

- Adequate notice of the IFB must be advertised on IPS and remain active for at least ten (10) days. If a pre-bid conference is scheduled, it will be scheduled at least seven (7) days after the advertisement begins.
- Bids will be opened publicly in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The amount of each bid, and other relevant information as may be specified by regulation, together with the name of each bidder, will be tabulated and open to public inspection.
- Bids must be accepted unconditionally without alteration or correction, except as otherwise authorized in the Administrative Code.
- Withdrawal of an offer must be requested in writing prior to the award of a contract. Correction or clarification of erroneous or unclear bids prior to award may be investigated as necessary and clarification permitted, but no change in pricing will be allowed. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition shall not be permitted.
- Application of NC Executive Order #50 (EO50)
- In order to be eligible, bidders must have their principal place of business based in North Carolina; simply having a location in the state does not automatically make a bidder eligible.
- When a North Carolina based bidder requests application of the EO50 preference, their bid amount must be compared to the low bidder for each item to see if they are eligible to price match.
- The NC bidder must be within the lesser of \$10,000 or 5% of the amount offered by the low bidder. If the NC bidder is outside these parameters, they are not eligible to price match.
- If the NC bidder falls within the eligible parameters, they will be contacted in writing and given the opportunity to match the price offered by the low bidder. The NC bidder must respond within three (3) business days.
- EO50 does not apply to construction or service solicitations
- Tie Bids. If two or more bidders are tied in price while otherwise meeting all of the required conditions, awards are determined in the following order of priority:
 - a) If there is a North Carolina firm tied with an out-of-state firm, the award shall be made to the North Carolina firm.
 - b) In all other situations in which bids are tied, the award must be made to the bidder offering the quickest delivery time, or if the tied bidders have offered the same delivery time, the tie must be resolved by the flip of a coin witnessed by the Procurement Officer.
- A minor informality or irregularity is one which is merely a matter of form or has no effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract. Provided the correction or waiver of the minor informality would not be prejudicial to other bidders or the University, the Procurement Officer shall either give the bidder an opportunity to cure any deficiency resulting from the minor informality or waive any such deficiency when it is to the advantage of the State. Such communication or determination shall be in writing and made a part of the procurement file. Examples of minor informalities or irregularities include, but are not limited to:
 - a) Failure of a bidder to return the number of copies of signed bids required by the solicitation;
 - b) Failure of a bidder to furnish the required information concerning the number of the bidder's employees or failure to make a representation concerning its size;
 - c) Failure of a bidder to sign its bid, but only if the firm submitting the bid has formally adopted or authorized the execution of documents by typewritten, printed, or electronic signature and submits evidence of that authorization, and the bid carries that signature or the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned document, such as the

submission of a bid guarantee with the bid or a letter signed by the bidder with the bid referring to and identifying the bid itself;

- d) Failure of a bidder to acknowledge receipt of an amendment to a solicitation, but only if:
 - i. The bid received indicates in some way that the bidder received the amendment, such as where the amendment added another item to the solicitation and the bidder submitted a bid, on it, if the bidder states under oath that it received the amendment before bidding and that the bidder will stand by its bid price; or
 - ii. The amendment has no effect on price or quantity or merely a trivial or negligible effect on quality or delivery, and is not prejudicial to other bidders;
- e) Failure of a bidder to furnish an affidavit concerning affiliates;
- f) Failure of a bidder to execute the certifications with respect to equal opportunity and affirmative action programs;
- g) Failure of a bidder to furnish cut sheets or product literature;
- h) Failure of a bidder to furnish certificates of insurance;
- i) Failure of a bidder to furnish financial statements;
- j) Failure of a bidder to furnish references;
- k) Failure of a bidder to furnish its bidder number; and
- l) The failure of a bidder to indicate his contractor's license number or other evidence of licensure, except that a contract must not be awarded to the bidder unless and until the bidder is properly licensed under the laws of North Carolina.

- Standard IFBs for goods and services do not have a requirement for a minimum number of bids received in order for the opening to take place. If only a single bid is received, the University may consider the bid and make an award to the sole responding vendor if all requirements are met and the using department deems the bid to be fair, reasonable, and that re-advertising the requirement would not result in additional competition. The using department must forward this determination, in writing, to the Purchasing Office for review and approval; if award is approved, the documentation will be added to the procurement file.
- IFBs issued for construction projects MUST have at least three bids received in order to be opened and reviewed. If fewer than three bids are received, they shall not be opened, and the project must be re-advertised, without any changes to the documents, for a minimum of seven (7) calendar days. After the second advertising, bids may be opened and considered for award regardless of the number of bids received.

SEALED REQUEST FOR PROPOSAL

- When the Purchasing Office determines that the use of a standard IFB is either not practicable or not advantageous to the State, a contract may be entered into through a proposal solicitation process that makes an award to the overall highest evaluated offeror. The purpose of the RFP process is to allow factors other than price to be considered in the determination of award for specific supplies, services, or information technology based on pre-determined criteria identified by the University.
- Specifications or a scope of work will be provided by the end using department, a solicitation document will be created by the Purchasing Office, and public notice of the solicitation will be posted to IPS in the same manner as provided with a standard IFB.
- Unlike a bid process, the only information made public at the time of the proposal opening is the number of offers received and the names of the offerors. A tabulation of proposals will be prepared, but will only be open for public inspection after contract award.

- The RFP must state the relative importance of the factors to be considered in evaluating proposals along with a numerical weighting for each factor. Price is an evaluation factor, but may be rated as high or low as deemed necessary to achieve the best solution.
- As provided in the RFP, discussions or presentations may be conducted with offerors for the purpose of clarification or to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussions. In conducting discussions, there must be no disclosure of confidential information derived from proposals submitted by competing offerors.
- Selection and Ranking. Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the University, considering only the evaluation factors stated in the request for proposals.
- Award must be made to the responsive and responsible offeror whose proposal is determined in writing to be the most advantageous to the University, taking into consideration the evaluation factors set forth in the request for proposals. The award of the contract must be made only on the basis of evaluation factors that are stated in the RFP. The contract file must contain the basis on which the award is made and must be sufficient to satisfy external audit.

CANCELLATION OF SOLICITATIONS

Prior to award, any solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the State. The reasons for rejection, supported with documentation sufficient to satisfy external audit, will be made a part of the procurement file.

❖ WAIVER OF COMPETITION CRITERIA

There are items and services that may legitimately have only one source of supply and require a purchase order sent to that specific vendor. Any time it is requested that competition requirements be waived, a justification must be documented and provided to the Purchasing Office when the request is submitted. This justification must clearly state how this item or service is unique, why it is only available from the requested vendor, and why that specific item or service is needed at the University. As a means of making this process simpler for departments, a Waiver of Competition Justification form is available from the 'Forms' section of the Purchasing website and contains basic guidance to aid the user with completion. A formal justification memo or email from the department is also an acceptable method for justifying the request as long as all pertinent points are included; assistance with these justifications can always be provided by Purchasing Office staff. Each submitted justification will be reviewed and a decision will be rendered by the Purchasing Office as to whether the State's competition requirements may be waived to make the purchase.

CONDITIONS PERMITTING A WAIVER INCLUDE, BUT ARE NOT LIMITED TO:

- There is only a single source of supply for the requested item/service;
- Performance or price competition is not available in the market;
- Required item or service is a patented product or process;

- Legitimate or pressing need or emergency situation is established (utilize the Pressing Need/Emergency Justification form);
- Competition has been solicited with no satisfactory offers received (written documentation must be provided);
- Standardization or compatibility with existing inventory or equipment is the overriding consideration;
- A donation establishes the source of supply;
- Particular medical product or service is needed;
- Particular prosthetic appliance is needed;
- Additional products or services are needed to complete an ongoing job or task;
- Products are bought for “over the counter” resale;
- Product or service is required for educational or training purposes;
- Required for an authorized cooperative project with another governmental unit(s) or a charitable non-profit organization(s);
- Used items that represent a good value to the University versus purchasing new.

❖ EMERGENCY PURCHASES

Emergencies are defined as situations that endanger life, property, or the continuation of vital programs. True emergency situations may require the immediate purchase of equipment, materials, or services and the University is authorized to make such purchases up to its delegation of \$100,000. Departments must clearly explain the emergency circumstance, how the campus could be negatively impacted through non- action, and why the chosen supplier is the only/best fit to resolve the emergency. The Pressing Need or Emergency Purchase Justification form is available in the ‘Forms’ section of the Purchasing website and Purchasing Office staff can assist departments with completion as may be necessary. Similar to Competition Waiver requests, all emergency requests will be reviewed, and a decision rendered by the Purchasing Office as to whether a true emergency exists and if the State’s competition rules can be waived.

❖ EXEMPTIONS FROM THE PROCUREMENT CODE

Certain purchases of goods and services are exempt from the rules of the North Carolina Administrative Code for procurement and requests up to ECSU’s delegation that fall into this category will be processed without the need for further documentation or competition. The exemptions are limited and specific in nature, so please contact the Purchasing Office for guidance as to whether a request may fall into one of the exemption categories.

EXAMPLES INCLUDE, BUT ARE NOT LIMITED TO:

- Published books, periodicals, manuals, and subscriptions to like materials;
- Packaged, copyrighted software;
- Professional services provided by an individual such as doctors, attorneys, engineers, artists, or performers. This exemption applies only to contracts with individuals, NOT to contracts with companies;

- Utilities

❖ EXECUTIVE ORDER #50

Executive Order #50 (EO50) allows North Carolina resident bidders to match the low bid amount of an out of state vendor, provided their bid amount is within the lesser of 5% or

\$10,000. When the University conducts a bid process, the bidders will be evaluated to determine if any are North Carolina based and if their amounts bid are within the allowable range. If they are, the resident bidder will be contacted and given the opportunity to match the out of state low bidders amount.

The EO50 preference only applies to commodities and is not applied to services, RFP processes, or construction procurements.

ADMINISTRATIVE PROCESSES

❖ BONDING

There are three main types of bonding or surety that are regularly encountered as it relates to procurement processes; bid bonds, payment bonds, and performance bonds.

- **Bid Bond:** This type of bonding is a guarantee to the University that a bidder has the means to complete a project and will actually begin the work after award of the contract. The intent of this type of bond is to avoid frivolous bids from contractors who do not have the means of performing the work.
- **Performance Bond:** This bond protects the University by providing a guarantee that the awarded contractor completes all aspects of the project in an acceptable manner. If there are uncured issues with the contractor's performance, the bond payment exists to make the University whole and provide funding to source a new contractor to complete unfinished portions of the project.
- **Payment Bond:** This bond is a guarantee that the prime contractor will pay all of its sub-contractors and suppliers for products and services used to complete the project. While this bonding does not provide any financial benefit to the University, it will guarantee that a completed project is delivered by the contractor free of any liens or obligations to other parties.

Bonds are generally not required for commodity and service solicitations; they are reserved for construction projects and other complex projects with a significant degree of risk involved. The State of North Carolina requires a bid bond equal to at least five percent (5%) of the total bid for all construction projects that exceed \$500,000.

Performance and Payment bonds in an amount equal to one hundred percent (100%) of the total cost of the project are required for all projects that exceed \$500,000. While not required, departments may request a surety bonding requirement be included in the solicitation of bids for a project of any value under the \$500,000 threshold if it is deemed to be in the best interest of the University.

❖ GREEN PURCHASING

The North Carolina Department of Environmental Quality encourages environmentally preferred purchasing for all state agencies and provides guidance regarding sustainable procurement methods. ECSU, as an agency of North Carolina, will abide by all of the state's green procurement practices to the greatest extent possible.

THE UNIVERSITY WILL STRIVE TO:

- Reduce waste and purchase fewer products when practicable
- Consider the environmental impact when making procurement decisions
- Purchase products that contain recycled content, prevent pollution, and reduce toxins or negative impacts on the environment
- Purchase products from North Carolina business when possible to minimize transportation costs and emissions, provided quality and performance are not compromised

❖ HISTORICALLY UNDERUTILIZED BUSINESSES PROGRAM

The North Carolina General Statutes require all State agencies to create a Historically Underutilized Business (HUB) program to increase purchases made from these firms. Quarterly, the Purchasing Office must report to the State on all purchases that were made to certified HUB firms, so all University orders are tracked for these requirements.

The Purchasing Office works with the campus' HUB Coordinator to annually provide meet and greet opportunities to these firms about how to better do business with the University and how to become certified by the State.

❖ PROTESTS

All protests of contract awards up to the University's delegation of \$100,000 are addressed and processed by Director of Purchasing; any protests that exceed University delegation are addressed by the State Procurement Officer (SPO) at P&C in Raleigh.

IN ORDER TO INITIATE A PROTEST OF AN AWARD UP TO \$100,000, THE VENDOR SHALL:

- Submit a written request for a protest meeting to the Director of Purchasing within thirty (30) calendar days from the date of the Contract award. The Director shall furnish a copy of this letter to the SPO within five (5) calendar days of receipt. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the Director determines that the protest is meritless so that a meeting would serve no purpose, then the Director may, within ten (10) calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request. A copy of the Director's decision letter shall be forwarded to the SPO.
- If the protest meeting is granted, the Director shall schedule the meeting within thirty (30) calendar days after receipt of the request, unless another date is mutually agreed upon. Within ten (10) calendar days from the date of the protest meeting, the Director shall respond to the Vendor in writing with the Director's decision and the Vendor's appeal rights under Article 3 of G.S. 150B. A copy of the Director's decision letter shall be forwarded to the SPO.
- The University will notify the SPO in writing of any further administrative or judicial review of the Contract award.

IN ORDER TO INITIATE A PROTEST OF AN AWARD THAT EXCEEDS \$100,000, THE VENDOR SHALL:

- Submit a written request for a protest meeting to the SPO within thirty (30) calendar days from the date of the Contract award. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the SPO determines that the protest is meritless so that a meeting would serve no purpose, then the SPO may, within ten (10) calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request.
- If the protest meeting is granted, the SPO shall schedule the meeting within thirty (30) calendar days after receipt of the request, unless another date is mutually agreed upon. Within ten (10) calendar days from the date of the protest meeting, the SPO shall respond to the Vendor in writing with the SPO's decision and the Vendor's appeal rights under Article 3 of G.S. 150B.
- The SPO shall notify the Secretary of any further administrative or judicial review of the Contract award.

❖ RECORDS RETENTION

All procurement records at the University are retained and disposed of in accordance with records retention guidelines and schedules established by the State. Procurement related records are retained for a period of five (5) years after the conclusion of the contract period, and then destroyed.

❖ REPORTING REQUIREMENTS

At the end of each quarter, the Purchasing Office must report to the State all purchases that were made from certified HUB firms. This report is due by the end of the month following the end of each preceding quarter.

The use of all consulting firms must be reported to the UNC System Office once per year and contain documentation on all consulting engagements undertaken.

❖ TRADE-IN OF MATERIALS

Some used equipment has value when used as a trade-in on the purchase of new equipment. When a campus department wishes to trade-in used equipment, the information must be sent to the Purchasing Office for review via the Surplus Request Form. This form is to be used for both fixed asset and non-fixed asset items, and will be automatically routed for the necessary approvals. Trade-in requests must include a description of the item; current condition; asset tag number (if applicable); date of acquisition; purchase price; vendor offering the trade-in; full price of the replacement item; trade-in allowance for the used item; and the reason the trade-in is more advantageous than sending the item to Surplus Property for public auction.

If the Purchasing Office deems the trade-in to be in the best interest of the University, it will request approval from the State Surplus Property Division. If the request is approved by State Surplus Property, the University may offer the existing equipment as a trade-in under the purchase agreement. Price of trade-in will be determined and/or approved by State Surplus Office. Any trade-in requests that are denied will require the item be transferred to Surplus Property and sold at auction in accordance with the State's rules on property disposition.

❖ UNAUTHORIZED PURCHASES

The Purchasing Office is sole campus department given authority by P&C to acquire goods and services on behalf of ECSU in accordance with North Carolina procurement laws. All departmental purchases must be made through use of the established e-procurement platform or p-card program; employees are not allowed to otherwise commit the University to a purchase from a vendor. The University is not legally bound to acquisitions made outside of established procurement rules, and individuals who commit to purchases, whether verbally or in writing, are personally responsible for the purchase and may be held liable by the University.

❖ VENDOR CREATION IN THE VIKING SHOPPES SYSTEM

Vendors must be active in the University's e-procurement system, Viking Shoppes, before a requisition can be entered or a purchase order issued. Vendors must also be active on the system before a contract process can be initiated through Viking Shoppes . Each request will be vetted to ensure documentation is complete, the vendor is not barred from doing business with the State or at the Federal level, and that there are no other issues with making purchases from them.

Departments who would like to have a new vendor added to the e-procurement system should log onto Viking Shoppes and submit a form to request the new vendor be invited to register with the University.

SPECIFIC PROCUREMENTS

❖ BOOKSTORE PURCHASES

Barnes & Noble holds the contract with the University to operate the campus bookstore. The Campus bookstore should be the first point of contact for all textbook and other book orders as their contract stipulates a 20% all authorized departmental purchases except adopted textbooks, special orders, sale books, class and alumni rings, computer software and hardware, periodicals, discounted merchandise, stamps, health and beauty aids, food snacks, and beverages. If the bookstore is unable to order the particular book required, off-campus sources can then be explored. University departments placing an order simply need to contact the bookstore for a quote and utilize a purchase order or p-card for payment.

❖ BUILDING OR OFFICE MAINTENANCE AND REPAIRS

All building and grounds repair requests, whether minor or major renovations, are handled by Facilities Management. Detailed instructions are available at the Facilities Management website.

❖ CONSTRUCTION PROJECTS

Informal construction projects that do not exceed \$300,000 are processed in a similar manner to purchases of goods and services up to this dollar amount. The Purchasing Office and/or the Capital improvement office works in coordination with the Facilities Management department to ensure all competition requirements of the State are met prior to award of any informal construction contract. Informal construction projects that do not exceed \$30,000 are not subject to the competitive requirements of the state and may be awarded directly to a qualified contractor by Facilities Management. Contractors are required to provide proof of insurance coverage for all projects before being allowed to come onto campus and perform work.

Large construction projects that exceed \$300,000 require formal bidding done in conjunction with the State Construction Office (SCO). Facilities Management coordinates all of these large projects with the State and the Purchasing Office is not directly involved in the solicitation or award process.

❖ CONSULTANTS

Consulting services are those provided by a contractor who is not actively involved in the process being studied, but rather provides expert, outside insight about how to complete a task or perform it more efficiently. They possess specialized knowledge, experience, expertise, or professional qualifications that make them ideally suited to provide insights and direction. Generally, consultants are not managed by university personnel and are tasked with analyzing the situation in the manner they deem to be best. After they have collected and analyzed their data, they provide recommendations to the University about how to complete or alter the subject matter in question.

When a department would like to secure a consultant to assist on a particular project, the purchase will be addressed in the same manner as any other request for a service provider. The RFP process is the best method to follow to secure

a consultant, but if a particular consultant has already been identified by the using department, a well-written Waiver of Competition justification may be considered as a means for bypassing the competitive selection process.

The State has strict regulations regarding the use of consultants, so every consultant request, regardless of cost, must be approved by the Vice Chancellor for Business and Finance before any engagement may take place. The department requesting the consulting service must provide a written justification to the Purchasing Office for review and further processing; a template to assist in compiling the justification is available by contacting your Purchasing Agent.

THE JUSTIFICATION MUST INCLUDE, AT MINIMUM, THE FOLLOWING POINTS:

- Description of the services to be secured;
- How the work relates to the proper functions of the department;
- The benefits expected to be received from the consultant's services;
- Start and end dates of the contracted services;
- Complete cost estimate as well as the funding source;
- Statement that the costs are reasonable and in line with current market conditions for this service;
- Statement on why the work to be performed by the consultant cannot be reasonably accomplished by current University or State employees;
- Potential sources of consultant services, if any, the department has identified
- If a particular consultant has been identified as the preferred source then an additional explanation as to why this is the sole or best fit contractor must also be included;
- Any additional information necessary to justify the need for the consultant service.

If the request to hire a consultant is approved, a contract with the consultant must always be put into place prior to the commencement of the project and that contract should clearly define the terms, statement of work, and any deliverables that will be associated with the project.

❖ CONTRACTING FOR SERVICES

The University enters into various Contracts so that services can be provided in an efficient and cost-effective manner. Contracts are established with Corporations and Independent Contractors who either have received an award through a competitive solicitation process, or offer a unique service required by an end using department. The designation of Independent Contractor status is governed by the Internal Revenue Service (IRS) tax code and common law; significant tax penalties exist for incorrect classification of an employee as an Independent Contractor. In addition, contracting with Independent Contractors may expose the University to significant risk, so it is imperative that common standards are applied in both classification and the contracting process. A contract should be created any time an individual or corporation provides a service to the University so that the deliverables and scope of work are clearly defined.

The terms and conditions (T&Cs) governing the contract should also be clearly defined for the protection of both the University and the contractor. If the contract document is provided by the vendor it should be routed to the Purchasing Office so that the T&Cs can be reviewed to ensure compliance with North Carolina law prior to being signed by the

University. The Purchasing Office also has contract templates available on the Purchasing website for use by campus departments.

University generated contracts will be signed by the vendor's representative, the requesting department, and an authorized campus official with delegated authority to bind the University. The departmental signature exists to serve as the acknowledgement that the contracted service is requested by the department and is not the legally binding University authorization signature. The Office of Legal Affairs has guidelines that delineate those people on campus who have contract signature authority and the types of contracts they may sign.

Additionally, if the contractor is an individual, the Tax Office requires the completion of an Independent Contractor Checklist prior to entering into the agreement if the individual will be providing services for a term of longer than eight (8) hours.

All contracts are subject to the State's procurement statutes and these agreements are addressed in the same manner as standard goods and services purchases. This means that all competition thresholds and Waiver of Competition justification requirements still apply.

❖ EQUIPMENT LEASE/RENTAL AGREEMENTS

Lease agreements are entered into for a defined time period, for example, one to three years, and generally cannot be cancelled during the term of the lease. If the equipment will be needed on a continuous basis, it is usually more economical to purchase the equipment outright if the funds are available. Leasing is a financing mechanism, not a funding source. The absence of current funding does not constitute a good reason to choose a lease over a purchase option. The primary reason to lease rather than buy an item is that the needed item is so expensive that its direct purchase is not possible and other financing mechanisms are unavailable or more expensive than leasing. Leases are legally binding contracts that financially obligate the University so new lease agreements are to be entered into only after the lease agreement has been vetted by the Purchasing Office and signed by an authorized University signatory.

There are two types of leases, Operating and Capital. Normally, at the end of an Operating Lease, the leased item is returned to the lessor. With a Capital Lease, the University will own the leased item at the end of the term either with no additional payments or by paying a predetermined final payment. An Operating Lease is treated like a series of rental payments, whereas a Capital Lease is recorded as an asset of the University, with a corresponding liability for the full amount of the lease obligation.

Rental agreements are similar to lease agreements but differ in that they can generally be terminated by the renter at any point by providing proper notice, typically thirty (30) days. The cost of some equipment is so great that it may be more economical to rent on a continuing, but indefinite basis.

Leases and rentals are also subject to the State's competition requirements if the total costs exceed the established threshold.

❖ FOOD SERVICE

Purchases of food or beverages for events that will take place on the ECSU campus, and are paid for with a university fund, generally must be ordered through Aramark due to the contract in place with that vendor. Contact Aramark to obtain a quote for the required services and enter your request into the Viking Shoppes system to have a purchase order generated. Departments should complete a Catering Services Exception form requisition or, if required; the form

and details regarding its use is available from the Business and Finance website. Any exceptions to this mandatory use contract must be approved by VC of Business and Finance and Chancellor and information about exceptions can be found on the Auxiliary Services website.

❖ FURNITURE PURCHASES

North Carolina has established mandatory use state term contracts with multiple manufacturers and distributors that should be able to meet most office and classroom needs of the University. Detailed information regarding the manufacturers available and the dealers authorized to sell these items to the University is available by reaching out to your Purchasing Agent.

❖ HONORARIA

An honorarium is a payment to an individual generally given as a gift of gratitude for a speaking engagement, presentation, or participation in a campus event. Contracts are not required for honoraria, but the department should memorialize the gift in the form of an official letter to the recipient. Engagements where the individual will be performing a service for the University with expected deliverables are not honoraria and should follow the Independent Contractor process.

❖ INDEPENDENT CONTRACTORS

Individuals who will provide a service to the University are subject to the procurement rules of the state and must have their contract formalized in writing prior to engagement. Once the competition requirements of the state have been satisfied, a contract will be created using the template available on the Purchasing website; if the individual provides their own contract document, it will be reviewed and edited as necessary to ensure compliance with North Carolina law.

❖ OFFICE SUPPLY PURCHASES

Office supplies are available through a mandatory use North Carolina state term contract and the current provider is Forms and Supply Incorporated (FSI). Orders can be placed by accessing the vendor's punch-out catalog in Viking Shoppes and building a shopping cart with the needed items. Please be aware that the minimum purchase to qualify for free shipping is \$25.00. Orders less than \$25.00 will be charged a \$5.00 shipping fee.

❖ PERSONAL PURCHASES

All goods and services procured at ECSU are for official use in furthering the mission of the University and may not be used for personal benefit. All purchases become property of the state of North Carolina and are only to be used for official business through the end of their useful life and then disposed in accordance with official State Surplus Property procedures. Similarly, personal purchases may not be made utilizing contracts and other methods put in place for making

❖ PROMOTIONAL AND BRANDED ITEMS

Promotional items include any merchandise that contains a ECSU brand asset and is used to promote the University, whether the items are produced for sale or give-away. Items that fall into this category include, but are not limited to, t-shirts, polo shirts, pens, coffee mugs, glassware, decals, etc. Only licensed vendors may produce and market items bearing ECSU's marks. University Communications has established guidelines that govern the use of all logos and marks of ECSU, and departments must adhere to these standards when procuring items that use the University's name or logo. Any vendor who will reproduce University marks must be licensed to do so, and that licensing process is coordinated by Communications and Marketing. Learfield Licensing Partners manages licensing for ECSU. LLP is contracted with Elizabeth City State University to help administer the licensing program on a national basis. LLP's main duty as the University's agent is to pre-screen all manufacturers desiring to produce goods bearing University marks.

❖ PURCHASING CARD PURCHASES

The University has an established purchasing card (p-card) program that allows departmental users to obtain a university credit card that can be used to make purchases outside of the normal Viking Shoppes purchase order process. The p-card is the preferred purchasing method for subscriptions, advertisements, conferences and purchases less than \$5,000 that meet the acceptable uses in accordance with Purchasing Card Manual.

The single transaction limit for commodity p-card purchases is \$4,999.99. The use of an individual's personal credit card is NOT an approved method for making University purchases and is to be avoided.

❖ USED EQUIPMENT

In most cases, the University enters into agreements for the purchase of new equipment, however, there are instances where the purchase of used or refurbished equipment represents a good value to the University and would make the most responsible financial sense to pursue. Purchases of used items are allowed and require completion of the Waiver of Competition Justification form that will be submitted to the Purchasing Office for approval.

The purchase of used equipment presents variables that should be considered before acquiring the equipment, so the requesting department should first identify the minimum specifications required and then verify that the specific used equipment is acceptable.

Best efforts should be applied to determine that the purchase of the equipment would be in the best interest of the University and can be clearly documented in the justification. The justification should explain how the purchase represents a good value to the University and compares the cost of the used item to that which a new item would cost, thus demonstrating the savings.

❖ VEHICLE RENTALS

A North Carolina state term contract exists for rental vehicles needed for official state business and the contract holder is Enterprise Car Rental. Departments who need to reserve a rental vehicle can make the reservation by accessing the Enterprise catalog available through EHIDirect.com. The user will have the option of creating a reservation using direct billing to the University, or using a university issued T-card. The T-card can be used for reservation purposes but be aware when making the reservation that the credit card used at the time the reservation is processed will need to be physically present with the user of the rental vehicle.