

## SECTION .0300 - PROCUREMENT AUTHORIZATION AND PROCEDURES

### 01 NCAC 05B .0301 CONTRACTING REQUIREMENTS

Except where a waiver, special delegation, exemption, or an emergency purchase is permitted under Rule .1401, .1505(b), or Section .1600 of this Subchapter, all purchases involving the expenditure of Public Funds made by an Agency for Goods or Services not covered by Statewide Term Contracts, shall comply with the provisions of Rule .0314 of this Subchapter, and the following:

- (1) Small Purchases.
  - (a) A Small Purchase, as defined in 01 NCAC 05A .0112, is the purchase of Goods and Services, where the total Contract value, including the amounts of Extensions and Renewals, is equal to or less than the Small Purchase Benchmark as set by the SPO.
  - (b) The Small Purchase Benchmark value shall be twenty five thousand dollars (\$25,000) in 2021 dollars. The SPO shall adjust the Small Purchase value for inflation in June of odd-numbered years using the Consumer Price Index for All Urban Consumers (CPI-U), all items in U.S. city average, not seasonally adjusted. The inflation change shall be calculated by dividing the CPI-U index value in May of the current year by the index value from May of two years prior.
  - (c) The executive officer of each Agency, or his or her designee, shall establish written internal policies for making Small Purchases, which shall include provisions to encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services. The procedures shall be made available to the SPO upon request such as part of a compliance review, complaint, or other inquiry.
  - (d) The Purchasing Agency shall award Contracts for Small Purchases.
  - (e) An Agency may advertise Small Purchase Solutions through the Electronic Bid System maintained by the Division and may utilize Division Solicitation Documents as specified in Rule .0314 of this Section.
- (2) Informal Bidding Purchases.
  - (a) Where the total Contract value, including the amounts of Extensions and Renewals, involves an expenditure of Public Funds exceeding the Small Purchase Benchmark in Item (1) of this Rule, and up to the Bid Value Benchmark established for a university under the provisions of G.S. 116-31.10, or the General Delegation limit for an Agency established by the SPO under the provisions of G.S. 143-53(a)(2) and G.S. 143-53.1, the following procedures shall be utilized:
    - (i) Competition shall be solicited, but the Solicitation of Sealed Offers is not required. Agencies may utilize the Division's Electronic Bid System to advertise Solicitations subject to this Subsection or to solicit Vendor Offers.
    - (ii) Division Solicitation Documents requesting or inviting offers shall be issued; and
    - (iii) Division Solicitation Documents and any resulting Contract shall include Contract language and terms and conditions as set forth in Rules .0314 and .0318 of this Section, and may be found on the Division's webpage. Additional terms and conditions used shall not conflict with the Division's standard terms and conditions as set forth in Rule .0314 of this Section.
  - (b) Contracts for purchases valued less than a university's Bid Value Benchmark or an Agency's General Delegation shall be awarded by the Purchasing Agency.
  - (c) Purchasing agencies shall encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services.
- (3) Formal Bidding Procedure.
  - (a) Where the total Contract value, including the amounts of any Extensions and Renewals, involve an expenditure of Public Funds in excess of the Bid Value Benchmark established under G.S. 116-31.10, G.S. 115D-58.14, or the General Delegation established by the SPO under G.S. 143-53(a)(2) and G.S. 143-53.1, the competitive bidding procedure as defined in G.S. 143-52 shall be utilized as follows:
    - (i) Competition shall be solicited;
    - (ii) Division Solicitation Documents requesting or inviting offers shall be issued by the Purchasing Agency;

- (iii) Solicitation Documents and any resulting Contract shall include contract language and terms and conditions as set forth in Rules .0314 and .0318 of this Section, and may be found on the Division's webpage, unless prior written approval is obtained from the Division for unusual requirements, such as for unique, complex, or highly technical Procurements. If additional terms and conditions for unusual requirements are used, they shall not conflict with the Division's standard terms and conditions as set forth in Rule .0314, unless prior written approval is obtained from the Division;
  - (iv) an Agency shall provide to the Division a draft Solicitation Document for review and approval prior to posting on the Electronic Bid System. The Division shall review for compliance in accordance with G.S. 143-50.1 and Section .0300 of these Rules; and
  - (v) an Agency shall solicit Sealed Offers in accordance with this Subsection. After opening and completing the evaluation of Offers received, the Agency shall prepare and submit a written recommendation for award, along with a copy of all Offers received, to the Division for approval or other actions deemed necessary by the SPO to ensure compliance with 01 NCAC 05B. Notice of the Division's decision shall be sent to the Agency.
- (b) An Agency shall advertise all Solicitations subject to this Subsection through the Electronic Bid System maintained by the Division.
  - (c) Contracts for purchases in excess of a university's Bid Value Benchmark or an Agency's General Delegation shall be awarded by the Purchasing Agency upon approval from the Division in accordance with the process outlined in this paragraph.
  - (d) Purchasing agencies shall encourage and promote the use of historically underutilized businesses as defined in G.S. 143-128.4 in purchasing Goods and Services.
- (4) The Procurement of Goods and Services shall be processed in the same manner.

*History Note: Authority G.S. 143-48; 143-49; 143-52; 143-53; 143-53.1;  
Eff. February 1, 1976;  
Readopted Eff. February 27, 1979;  
Amended Eff. February 1, 1996; January 1, 1985;  
Temporary Amendment Eff. February 15, 1998;  
Amended Eff. April 1, 1999;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;  
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