

01 NCAC 05B .1511 ANTICOMPETITIVE, DECEPTIVE, AND FRAUDULENT PRACTICES

(a) A Purchasing Agency shall act to prevent the continuance of anticompetitive, deceptive, or fraudulent practices. Anticompetitive practices include actions involving Vendors that restrain trade or commerce or eliminate Competition.

(b) Anticompetitive, deceptive, or fraudulent practices may be evidenced by one or more of the following:

- (1) conspiracy in restraint of trade or commerce;
- (2) combination bidding in restraint of trade or commerce;
- (3) price fixing which may include reliance upon an industry price list;
- (4) collusion;
- (5) identical bidding; or
- (6) agreements to:
 - (A) rotate Offers;
 - (B) share the profits with a Vendor who is not the low Vendor;
 - (C) sublet work in advance of bidding as a means of preventing Competition;
 - (D) refrain from bidding;
 - (E) submit prearranged Offers;
 - (F) submit complementary Offers;
 - (G) set up territories to restrict Competition;
 - (H) alternate bidding; or
 - (I) any other unlawful act in restraint of trade or commerce.

(c) Agency actions to discourage or prevent the continuance of anticompetitive, deceptive, or fraudulent practices may include the following:

- (1) rejecting the Vendor's Offer;
- (2) awarding a bid to a Vendor with a cost or technical proposal that is evaluated lower than the offending Vendor's proposal; and
- (3) recommending that the SPO debar a Vendor from doing business with the State in accordance with Rule .1520 of this Section.

(d) The Purchasing Agency shall report evidence of anticompetitive, deceptive or fraudulent practices to the Attorney General's office and any other appropriate law enforcement authority.

*History Note: Authority G.S. 143-53; 143-54;
Eff. February 1, 1976;
Readopted Eff. February 27, 1979;
Amended Eff. April 1, 1999; February 1, 1996;
Readopted Eff. October 1, 2019.*