

FAYETTEVILLE STATE UNIVERSITY

PURCHASING POLICY

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FAYETTEVILLE STATE UNIVERSITY

PURCHASING POLICY

Authority:	Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor.
Category:	Business, Finance and Administrative Services
Applies to:	●Faculty ●Staff ●Students
History:	Last Revised, February 29, 2008 (effective July 1, 2007)
Related Policies:	North Carolina General Statutes (Chapter 143) University of North Carolina Policy Manual (Section 600.3.1) State of North Carolina Purchasing Manual
Contact Person:	Director of Purchasing (910) 672-1086

I. INTRODUCTION

This policy is intended to provide the policies and procedures that must be followed in carrying out the purchasing process at Fayetteville State University. The primary goal of all purchasing activities at the university is to procure a high-quality product or service, at the best price, in the shortest period of time. As a 'custodian of public monies,' the Purchasing Department is committed to integrity and professionalism.

II. AUTHORIZATION AND ORGANIZATION

The Purchasing Department is the sole entity on campus having the authority to place purchase orders and authorize the use of small purchase procedures to acquire commodities (i.e., supplies, materials, and equipment) and contractual services (to include printing and professional and consultant services) by purchase, rent, lease, lease-purchase or installment purchase. Also, the Purchasing Department executes contracts for construction, repair, and/or renovation of university facilities with authority delegated to the university's facilities maintenance department for pre-award actions.

The purchasing processes of the university are guided by the principles of fairness, impartiality, and propriety. The actual absence of, or even the appearance of the absence of, these principals may constitute a conflict of interest where the university, or individual, is adjudged as practicing favoritism or preferential treatment toward a particular vendor or contractor. Because of the detrimental impact that these conditions may have, the university is committed to fair and open competitive placement of its requirements and the avoidance of any conflict of interest.

In this regard, it is the policy of the university that employees must avoid conflicts of interest that may compromise professional objectivity. This mandate is particularly true in the execution of the university's purchasing practices, regardless of the individual doing so, as they retain a high level of public visibility due to the custodial nature of these responsibilities.

Purchases are subject to the terms and conditions of State law and the University of North Carolina Board of Governors policies, and, in the instance of federally funded grants and contracts, federal law.

III. UNIQUE PURCHASE ITEMS

A. Purchases for Personal Use of Employees

1. State and university policy prohibits the university Purchasing Department from entering into any purchase contracts on behalf of employees. All materials purchased by the university on official purchase order or other recognized university purchasing instruments remain the property of the State until consumed or disposed of by public sale through surplus property procedures unless otherwise allowed by State Statute.
2. All purchase orders issued by the Purchasing Department, accordingly, must be for official use by university departments or agencies.

B. Purchases from Employees or Employee Family Members

State and university policy forbids purchase of materials or services from State or university employees or their families.

C. Purchases of Food Items, Refreshments, Sundries, etc.

Food items; refreshments (coffee, donuts, drinks, etc.); and sundries may not be purchased using State funds. Such purchases may, however, be allowed under certain explicit grants, contracts, trust funds, or discretionary accounts, providing the funding agency will not disallow the expenditure.

D. Purchase of Radioisotopes

Any possession and use of radioactive sources in excess of exempt quantities must be authorized under license to the university by the State of North Carolina in agreement with the U.S. Nuclear Regulatory Commission. The university would be required to provide assurance under such a license that all radioactive materials are obtained, used, and disposed of in accordance with license specifications.

Accordingly, all initial requests for radioactive materials are to be made on a purchase requisition and forwarded to the Purchasing Department for placement of the purchase order, provided all licensing requirements have been met.

E. Purchase of Controlled Substances

The possession and use of controlled substances (drugs having no accepted medical use or drugs having potential for abuse) are governed by the Federal Controlled Substances Act of 1970. This law requires every person who manufactures, distributes, prescribes, administers, or dispenses any controlled substance or who proposes to engage in any activity utilizing controlled substances to register annually with the U.S. Department of Justice, Bureau of Narcotics and Dangerous Drugs.

Any purchase of a controlled substance must be done by the university designee (usually the Director of Health Services) who is registered with the U.S. Department of Justice, Bureau of Narcotics and Dangerous Drugs. Purchase of controlled substances will be for clinic/infirmarary use only. This registration cannot be used to purchase controlled substances for instructional purposes or research. Practitioners and individuals within teaching institutions desiring to conduct research or otherwise handle controlled substances must obtain individual registrations from the Bureau of Narcotics and Dangerous Drugs.

Purchase of controlled substances cannot be made by or for the university without such proper registration.

F. **Purchase of Industrial Alcohol**

The Department of Treasury, Bureau of Alcohol, Tobacco and Firearms (ATF) regulates the tax-free purchase of industrial alcohol and specifically denatured spirits. Such purchases may only be made for these items upon receipt of the ATF's approval as documented by the ATF issuance of an "Industrial Alcohol User Permit" (ATF Form 5150.9). Upon issuance of the ATF permit number, the university may withdraw and use alcohol tax free on a continuing basis and will remain in force until suspended, revoked, or terminated.

Associated with the issuance of this permit are the requirements to:

1. Maintain records and file periodic reports as required by federal regulations.
2. Pay the \$250 Special Occupational Tax (a tax on the use of alcohol and not itself) on an annual basis.
3. Post the permit in the authorized and approved place of storage.

IV. **FUNDING SOURCES**

A. **Applicability of State Purchasing Practices**

The State of North Carolina Purchasing Department, has established that all public funds irrespective of source used for purchases, rental, lease, and lease-purchase of commodities (i.e., equipment, materials, supplies) and services will be controlled by the provisions of North Carolina law, and the State of North Carolina's Purchasing Manual as implemented by the university's Purchasing Policies and Procedures.

B. **Department Funds**

The university administratively operates on the principle of decentralized fiscal responsibility (or budget allocations to the college, schools, and departments) and internal management control. The administrative head of each unit, accordingly, is responsible for the expenditure of this allocation.

Funds are available for purchase upon allocation and allotment to the affected account. The Executive Budget Act prohibits the obligation of State funds prior to these actions and the expenditure of monies for any purpose for which it was not appropriated.

The authority to make purchases from department budgets is provided to the Purchasing Department by signatures of the administrative head, or account holder, on a purchase requisition or the authorized submittal of an electronic (i.e., online) requisition. In some cases, this authority to approve charges against a department budget is delegated by the administrative head to others. Such a delegation, however, does not relieve the primary party from the responsibility for the allotted budget and its use.

C. **Grants and Contracts**

Research funds, whether grants or contracts, are considered to be awarded to the university and not the individual principal investigator or a particular department. Generally, these funds are expended under the auspices of a department or school with authorizations provided as discussed at Department Funds above.

In addition to being guided by State statutes and the Office of Management and Budget (OMB) Circular A-110, the Federal Acquisition Regulation, Part 35, and Federal Acquisition Circulars. OMB Circular A-110 provides standards for obtaining consistency and uniformity in administering the obligation of federal funds extended to institutions of higher education by an award of the federal government. Particular sections of the Circular Procurement Standards, which require specific purchasing practices by all individuals involved in the purchasing process, are:

1. Section 43 – The university must provide, to the maximum extent, open and free competition in its purchases.
2. Section 44 – The university’s purchasing practices and procedures must provide that:
 - a. The requisitioning and purchase of unnecessary items is avoided.
 - b. A lease-versus-purchase analysis is performed, where appropriate.
 - c. Small-business, minority-owned firms, and women’s business enterprises are used.
 - d. Awards are made in the type of instrument that best serves to promote the funded program, i.e., firm fixed-price purchases.
3. Section 45 – The purchasing files must evidence the accomplishment of a cost or pricing analysis prior to each award.
4. Section 47 – Contract administration is accomplished to enable an assessment of the vendor or contractor’s performance and its conformance with the purchase’s terms and conditions, specifications, and delivery.

While the Circular does address the disposition of equipment, equipment purchased with grant or contract funds additionally is subject to all university and State regulations governing equipment use, management, and disposal. All equipment transferred to the university from other institutions or agencies, if allowed by grant or contract terms, is subject to all university and State regulations governing equipment use, management, and disposal.

V. PURCHASING PRACTICES

Purchases originate with the authorized submittal of a purchase order requisition and are consummated with the issuance of a purchase order by the Purchasing Department.

All purchases made by and in the name of the university over \$1000.00 will be initiated by the completion of an online or paper requisition. The data are initiated by the requesting department and electronically approved by the authorized manager of the funds in that department (project director, department chair, supervisor, etc.). After the appropriate approvals, the data are transmitted to Purchasing for processing and review before the generation of a purchase order. The online requisition process is the university’s preferred method of submitting a purchase order requisition as it substantially adds to the effectiveness and efficiency of overall purchasing

practices on the campus. However, in certain instances, a manual requisition is submitted, signed by the requestor and all required authorizing parties prior to receipt by the Purchasing Department. After budget approval, Purchasing generates the purchase order.

No purchase or any action leading to the commitment of the university for amounts over \$1,000, may be initiated without the submittal of a fully funded properly executed Request for Purchase form or an automated online requisition. Purchases under \$1,000 will be made through accounts payable with a check request. All purchases, regardless of the amount, must follow state purchasing guidelines detailed in this policy. Failure to submit a proper request will only delay the purchasing process.

A purchase order is required for all purchases in the name of the university over \$1,000. Soliciting without the evidence of the availability and intent to expend funds can adversely impact the university. Actions of this nature may be considered "frivolous bidding" and serve as basis for recovery of bidding and bid preparation costs. Unauthorized commitments made on behalf of the university will become a personal liability to the requestor.

University departments play an active role in contract administration and quality assurance of the university's purchases as these responsibilities are specifically delegated and are necessary for each individual purchase. Contract administration by the Purchasing Department is performed on a by-exception basis. The Purchasing Department, however, has the authority to alter any obligation legally created on behalf of the university as well as cause any termination action. Purchase orders are created primarily to reserve the funds, but are not necessary for the payment of a contract, any agreement with another state agency (including other universities and general administration), or any other legally binding agreement which has been appropriately executed.

Purchases are bound by the mandates for competition and the use of specific sources of supply. It is the policy of the university to establish the environment for fair and equitable competition in its purchases, consistent with the efficient performance of the university's contractual obligations and other mandated programs.

Competition serves as the basic architecture of all university purchasing (N.C.G.S. 143-52) where competitively acquired pricing provides for the award of requirements to the lowest bid and most advantageous offer considering the offeror's product or service cost, quality, suitability and conformity, delivery and performance, capacity and capability. Other factors specified in the university's solicitation of the requirement might be considered in making the award as well.

A. **Support of State Mandated Sources of Supply**

It is the university's policy to adhere to the State's requirement to use mandatory and preferred sources of supply and services. North Carolina statute and the State Division of Purchase and Contracts, North Carolina Department of Administration, establish these requirements.

B. **State Term Contracts**

North Carolina law provides that it is unlawful to purchase any requirements from sources other than those certified by the State and prescribed by the State Term Contracts. Purchase from sources other than those certified by the State (i.e., under Term Contract) is considered unlawful.

The State enters into these Term Contracts typically as annual contracts with vendors to acquire favorable prices for many commonly used items across the state. As such, the cost of an item under Term Contract may not be used as justification for purchasing an item from a non-contract source if significant savings are available.

The first approach to any purchase should be to determine its availability on State Term Contract. Questions regarding what is available under State Term Contract or information concerning vendors under contract should be directed to the Purchasing Department.

State Term Contracts offer a vast array of products and services. These items may be viewed at the State Division of Purchase and Contract Web home page (<http://www.doa.state.nc.us/PandC/agpurman.htm>).

C. **Correction Enterprises**

North Carolina law requires North Carolina Correction Enterprises products to be provided first consideration unless such products do not satisfy the requirement. By statute, Correction Enterprises is required to keep the price of such items substantially in accord with that paid by governmental agencies' for similar items as a result of competitive solicitations. Products available from the private sector, including Term Contracts, may be purchased only when it is determined that the Correction Enterprises product will not satisfy the university's requirements or will not be available when needed.

Correction Enterprises offers a vast array of products and services. These items may be viewed at the Correction Enterprises Web home page.

D. **Support of Levied Purchasing Programs**

In addition to the mandates of competition and required and preferred sources of supply, the university supports additional programs levied by North Carolina law and those established internally in the best interest of the university.

E. **Historically Underutilized Business Program (HUB)**

In support of and in compliance with the Governor's Executive Order No. 77, it is the policy of the university that, to the extent permissible, purchases will be placed with Historically Underutilized Business (HUB). HUB-eligible purchases will provide the access and opportunity to participate competitively in the university's purchasing program without barrier.

HUB vendors are currently defined to include those businesses that are owned by minorities, women, and persons with disabilities as well as business enterprises and non-profit workshops for the blind and severely disabled.

Through the use of HUB vendors, the competitive base of the university's purchasing will be broadened. Benefits will result for both the university and the vendor.

The following actions will continuously be taken to further foster the HUB Program and meet the program objective of awarding at least four percent of purchases to HUB vendors:

1. HUB vendor candidates will be actively identified and recorded for use in all appropriate purchases. The Purchasing Department will participate in vendor fairs and minority programs, as available, to identify potential new HUB sources of supplies and services.
2. Solicitations issued by the Purchasing Department will consider the use of these vendors. Also, all requests for pricing accomplished by departments will consider the use of HUB vendors.

3. Announcements and correspondence will be made to emphasize the significance of the HUB program, where and when appropriate.

The Purchasing Department will serve as the administrator and coordinator of the HUB Program for Fayetteville State University.

F. **Purchasing Recycled Products (Buy-Recycled)**

In support of and in compliance with the Governor's Executive Order No. 8 and North Carolina law, it is the policy of the university to promote and, to the extent maximum feasible, purchase and use products with recycled content. By law, the university is required to acquire fifty percent (50%) of its paper and paper products purchases with recycled content. Accordingly, Buy-Recycled purchases will occur where it is found economically practicable and cost effective to do so.

"Recycled content" products are those which incorporate waste materials and by-products that have been recovered or diverted from the solid waste stream, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. The purchase of recycled content products fosters the growth of the availability of this type product and the closure of the cost variance between recycled content and 'virgin' products.

The following actions will continuously be taken to further foster the Buy-Recycled Program and meet program objectives:

1. All campus departments are to purchase and use products manufactured from or containing recycled materials whenever feasible. In particular, recycled content paper and paper products should be used.
2. Requirements' specifications will be continuously reviewed and revised, as appropriate, to eliminate any discrimination against materials and supplies with recycled content, except where health, safety, and welfare would be placed in jeopardy.
3. Solicitation documents will be written to encourage vendors and contractors to offer products having recycled content and to propose prices for such products. Pricing obtained by the campus will similarly conform. Recycled product proposals will be considered in the evaluation for award when the product is comparable in quality, availability, and price.
4. When available, consideration will be given to products that are reusable, refillable, repairable, more durable and less toxic and use minimal packaging. State Term Contracts will be used, as well, when the products are listed.
5. Public documents published for the university printed on recycled paper will contain a printed statement or symbol indicating that the document was printed on recycled paper.
6. Announcements and correspondence will be made to emphasize the significance of the Buy-Recycled Program, where and when appropriate.

G. **Safety of Purchased Products**

By the purchase of specific goods, materials, and equipment, departments create liabilities for the use of such items and their introduction into the work place, which the

university must assume. These items include, but are not limited to, equipment and furniture where safety standards may apply, hazardous materials such as chemicals and biological agents, construction materials and products used to alter or modify facilities, portable heating, and cooling equipment acquired by departments other than Facilities Management and Residence Life.

To ensure proper compliance of these purchases, university departments are required to observe any guidelines prescribed by the university in the identification, purchase, and use and disposal of goods, material, and equipment.

H. **Supported Computer Products and Related Technology**

To assure the integrity of the university's computing network and to be able to provide instruction, consultation, and maintenance in a cost-effective and efficient manner, the university's ITTS Department has established standards for computer and related technology. In addition to covering computer hardware, these standards specify operating systems, network protocol, and other operational software that are accepted for general use throughout the university.

I. **Justification Memorandum**

The justification memorandum is not a specific form but is a memorandum or letter that is prepared by a department to explain a particular purchasing requirement, the use of a specific purchasing method, or the requirements to support a certain action. The specific instances requiring the use of a justification memorandum are described throughout these policies and procedures.

A justification memorandum may be in any format and of any length and should be addressed to the Director of Purchasing. The purchase requisition referred to in the justification memo should be attached or clearly referenced on the hard copy sent to Purchasing.

Each justification memorandum or letter is prepared for a unique situation; therefore, the information necessary in each instance is different and must be tailored to meet the circumstance's needs.

J. **Penalties for Non-Compliance**

Compliance with University and State Purchasing guidelines is crucial to the operations of the university. Employees who do not follow appropriate purchasing guidelines will be subject to the penalties listed below. In addition, at the Vice Chancellor's discretion, the individual may be required to pay for the item purchased.

-First Offense – The employee will be notified in writing (with a copy to the employee's supervisor) that s/he will be required to attend purchasing training. The employee may also be required to pay for the item purchased

-Second Offense – The individual will be required to pay for the item purchased and the individual's purchasing authority may be suspended for a certain time period.

-Third Offense – The individual will be required to pay for the item purchased and the individual's purchasing authority will be terminated.

VI. METHODS OF PURCHASING

The major factors that determine the manner in which a requisition is processed by the Purchasing Department include the nature of the commodity or service to be purchased, its dollar value, and the urgency with which it is needed. Additionally, the use of authorized and proper funding accounts and object codes can affect a purchase.

A. **Method of Commercial Vendor Purchases**

Online Requisitions – All requisitions must have a complete description including catalog number, model, size, color, and detailed description of item. The requestor should submit requisitions in adequate time to allow routine processing by Purchasing. Requisitions are reviewed by Purchasing and flagged for printing the following day due to overnight processing by the system.

B. **Method of Campus Vendor Purchases**

1. **Central Store Requisitions** – The Central Store is the source for purchasing all general office supplies. In compliance with the guidelines of the State of North Carolina, Division of Purchase and Contract, if the items requested are not available from the Central Store but are available on the State Term Contract, the department must place an order with the appropriate contractor listed. If more than one contractor is listed, then the one that will best satisfy the department's needs or the one identified as a HUB vendor should get the order. If no vendor is on the State Term Contract for the item required, the order will be placed with the vendor determined appropriate to supply the item. All Central Store orders require a paper requisition with the appropriate authorizing signatures.
2. **Printing Requirements** – All requests for printing must be submitted to the FSU Print Shop before processing by Purchasing. The Print Shop is the university point of contact for all off-campus printing.

VII. OBTAINING PROPOSALS AND QUOTATIONS

By action of The University of North Carolina Board of Governors, the university's purchasing authority is limited to a \$50,000 'benchmark', or as otherwise stated, the university is required to solicit and place its requirements through State Division of Purchase and Contract for all commodities when the total requirement exceeds \$50,000. The solicitation of proposals, bids, and quotations for requirements valued at \$50,000 or less is generally within the authority and the responsibility of the university.

Contractual services exceeding \$50,000 may be solicited by the Purchasing Department, but awards are subject to the approval of the State Division of Purchase and Contract.

Public law establishes that it is not permissible to divide requirements to assure a requirement does not exceed \$50,000 limit or any other imposed limit and thus avoid placement through the State or, as required, any other threshold prescribed herein. Additionally, all purchases issued by the university become void when the total dollar value exceeds \$50,000 unless an exception exists by special delegation, exemption, State certificate of award, State guidance, or State Term Contract.

A. **Confidentiality**

The confidentiality of university cost estimate for a requirement, offeror or bidder proprietary product data, competitive position of offerors and bidders, pricing information, technical evaluation information, and other information that may potentially enhance the advantage of one offeror or bidder over another must be maintained throughout the entire purchasing process until an award is made. This practice is key to

maintaining the integrity of the university's purchasing processes and procedures. Improper release of any of this information compromises the ability of the university to procure commodities or services in a competitive and equitable market as well as impair future purchases.

B. Forms for Obtaining Pricing

The university secures competitive pricing through proposals, bids, and quotations. Regardless of the solicitation practice used, the university's estimated cost (requisition) is to be safeguarded at all time and is for internal use only.

1. Requests for Proposal (RFP) - solicitation documents where the evaluation of competing offerors for an award may be performed considering factors other than/in addition to cost, e.g. performance and value of cost. These factors often entail some form of submittals or demonstration and may provide for measurable evaluation. Limited requests for clarification and discussions may be available under the RFP. Respondents to this form of solicitation are termed offerors who present an offer or proposal to the university.
2. "Two-Step" Requests for Proposal (RFP) - proposals where both technical evaluation criteria and award evaluation criteria are specified. Only offerors successfully completing the technical evaluation are considered under the award evaluation; award criteria may include factors other than cost (e.g., value for cost.) Responses to both the technical and award evaluation criteria are considered 'confidential' until award. Departments participating in the evaluation processes are not permitted to release or discuss any information disclosed during the evaluation, particularly with any offeror. Respondents to this form of solicitation are termed "offerors" who present an 'offer' or 'proposal' to the university.
3. Invitations for Bid (IFB) - solicitation documents in which the evaluation of competing bidders for an award is primarily based on cost, although other factors may be considered if specified in the IFB. Responses to IFBs are submitted as "sealed bids" and bids are considered confidential until award. No discussions, disclosure of price costing information, or relative positions of bidders are permitted under an IFB. Awards are premised solely on what was solicited and responded. Respondents to this form of solicitation are termed "bidders" who present a "bid" to the university.
4. Requests for Quotation (RFQ) - solicitation documents used to secure competitive pricing when the requirement is not complex. An award resulting from a RFQ is based on cost. Respondents to this form of solicitation are termed "offerors" who present a "quote" or "quotation" to the university. RFQs may also be issued to solicit pricing from sole/single source providers.
5. Request for Information (RFI) - solicitation documents in which the intent is to obtain product/service and pricing information for "planning purposes" only. A RFI provides no commitment on behalf of the university to make a purchase as a result of this form of solicitation. Rather, prospective respondents are advised that the university is only seeking information generally to assist in making a management and/or budgetary decision. Potential respondents are also informed that the university is not responsible for any costs, which may be incurred in preparing a response or the response itself. The RFI should be used judiciously as it can affect future responses to university RFPs and IFBs.

C. **Threshold Levels**

Proposals, bids, and quotations within the university's benchmark are procured with the following additional guidance (Note: telephone quote and written quote forms are available in Purchasing):

1. Purchases to \$1,000 - Purchases may be made without soliciting competition for items not on State Term Contract.
2. Purchases from \$1,001 to \$2,500 – Unless items are on state contract, departments are required to solicit three oral quotes. It is vital all offerors be given complete details of the proposed transaction and all be given the same information. The successful vendor is required to send by mail or facsimile, its quote in writing. For state contract items, no quotation solicitations are required.

A record of all quotes received, including verbal, should be retained by the requestor with a copy of the requisition. Awards to other than the low quote vendor may require an explanation in writing.

3. Purchases from \$2,501 to \$5,000 – Unless items are on state contract, departments are required to solicit three written quotes. For state contract items, no quotation solicitations are required. The solicitation documentation shall include terms and conditions applicable to the requirement. A detailed description of the service and/or product to be obtained is required (stipulate model or manufacturer if known). Date of delivery should be indicated if required for specific function. Indicate whether substitutions will be acceptable and specify date quotation is required.

Written reason for award to other than low quote vendor is required. Reason must be based on specifications outlined in the quotation request, delivery/service and/or maintenance. Retain all quotations with a copy of the requisition or purchase order.

4. Purchases from \$5,001 to \$50,000 – Unless items are on state contract, the university must solicit competition by issuing a written Request for Quotation (RFQ) for purchases on this level. After the vendor has been determined, a detailed online requisition (model, style, color, specific features, anticipated usage, size, specifications, quantity, when required) is submitted by the requestor. All RFQ information should be attached to the copy of the online requisition or purchase order and retained by requestor.
5. Purchases above \$50,001 – A formal bid process is required. Based on the information provided by the requestor, Purchasing will complete the appropriate document (RFB, RFP, or RFQ) for publication on the State Purchase and Contract Web Site. The information provided to Purchasing must be detailed and specifications must be complete. Responses will be based solely on the information provided in the document and site visits, if required.

Note: Formal bids solicited by the State Purchase and Contract Division may require up to 45 to 60 days.

'Original signature' pricing documents are required for Purchasing Department files for all proposals, bids, and quotations. Facsimile submittals are permitted under RFPs, but not IFBs. Where a facsimile proposal is submitted, award will be premised on the receipt of the 'original signature' proposal document.

The Purchasing Department encourages campus departments to assist in obtaining pricing information prior to submitting a requisition. Campus departments should use the following guidelines when seeking pricing. The Purchasing Department will review this information and may resolicit the requirement, where deemed necessary, prior to issuing any purchase order.

1. Provide the same information to at least three vendors.
2. Establish and state a common deadline date for vendors to respond with a quotation.
3. Provide the vendors information on quantity, brand, catalog number, or a good description, and ask for comparable items.
4. Request a 'delivered price' with F.O.B. Fayetteville State University.
5. Specify the required delivery date.
6. Obtain the sale person's name, vendor name, address, telephone number, and quote information.
7. Clearly advise the vendors that by asking for pricing information the university is not placing an order or under any obligation to do so.

The campus department's pricing information may serve as the foundation for issuing a purchase order. All such solicitations will be accomplished on university forms and include the State's standard language and terms and conditions.

Additionally, when competition is not evident or is inadequate to enable or warrant an award based on "competitive pricing", the Purchasing Department may require the campus department originating the requisition to assist in making a determination as to the price offered by a vendor being "fair and reasonable" as well as in determining the vendor to be "responsible". It is the policy of the university not to award a requisition to a vendor which is not responsive, cannot be determined responsible, and when the price is not "fair and reasonable".

1. Price "fairness and reasonableness" may be adjudged based on value analysis, price analysis, or cost analysis. "Value analysis" is the campus department's assessment that a commodity's or service's price is reasonable considering such factors as the department's own knowledge of the requirement, a comparison of the requirement, the effort required to provide the commodity or service, etc. "Price analysis" is the comparison of prices for past similar purchases or known market price structures. "Cost analysis" is in-depth line item research of all cost elements comprising a price which may rely on published standards (e.g., Means Manual) to include both labor and materials as segregable elements.
2. A "responsive" vendor is an offeror that has satisfied all of the terms and conditions of the university's solicitation. As a standard, this determination includes the vendor's completion of all representations outlined in a solicitation and the submittal of its offer on the university's prescribed forms. "Responsiveness" is a key determination, which must be made for all responses to solicitations.
3. Vendor "responsibility" is the assessment that a prospective awardee has both the "capacity" and "capability" to perform a requirement for the university.

“Capacity” includes the financial and organizational resources to execute satisfactorily and complete a purchase order. “Capability” envelopes the technical knowledge, equipment, experience, etc., to perform satisfactorily and typically includes reference checks of similar work performed for other clients.

When submitting purchase requisitions for materials, sufficient leadtime must be given to solicit and evaluate bids, place orders, and impact delivery.

1. Five to seven days are generally required to solicit quotations and place a purchase order for requirements under \$10,000.
2. Up to thirty days are required for purchases between \$10,000 and \$50,000.

VIII. PRESSING NEED, EMERGENCY AND CONFIRMING PURCHASES

Policy dictates that the issuance of an official university Purchase Order or other recognized document precede the procurement and receipt of commodities and services costing more than \$1,000 before tax and shipping. Integral to this process is the element of planning.

It is recognized, however, that instances do occur when planning is not possible due to the circumstances surrounding the requirement. Such situations are defined as when there is a “pressing need” or “emergency” as prescribed below. In these specific instances (as defined below), occasional exceptions may be made to this policy with the prior approval of the Purchasing Department.

Where the conditions may substantiate and when approved by the Purchasing Department or the State as required, expedited purchases may be executed. Campus departments affected by such circumstances will contact the Purchasing Department prior to acting or committing the university. Where time is available, the circumstance will be reviewed and prior approval of the Purchasing Department sought by the campus department. When the conditions are such that immediate action is warranted, the Purchasing Department will be advised as rapidly of the circumstances as possible.

- A. **Emergency Purchases** – Defined as unforeseen situations are those that endanger lives, property, or the continuation of vital programs and require immediate on-the-spot purchases (or rental) of equipment, materials, supplies, or services.

The university is delegated the authority to make emergency purchases not to exceed \$50,000 without following the prescribed procedure for routine purchases when it can be determined and documented that the failure to procure the requirement will be to the severe detriment of the university, students and employees, or the public. Although competition may be forgone under such conditions, the university must still act reasonably in using public funds.

When the requirement exceeds \$50,000, the campus department shall advise the Purchasing Department of the need so that the university may obtain the oral approval of the State Division of Purchase and Contract, if time permits. Whether prior approval was or was not possible, the campus department will provide the Purchasing Department with sufficient information to allow a written explanation of the emergency to be submitted to the State. This explanation must clearly portray the cause and reasons for handling the specific transaction as an emergency.

- B. **Pressing Need Purchases** – Unforeseen situations are those that have created a requirement which immediate on-the-spot purchase (or rental) of equipment, materials, supplies, or services can only rectify. The causes for such situations may include, by

example, delay by contractors, delay in transportation, breakdown of machinery, and unanticipated volume of work.

The Purchasing Department's processes for "Emergency Needs" will apply to "Pressing Needs"; however, competitive placement of the requirement with a vendor shall be exercised. Additionally, purchase requisitions for "Pressing Need" purchases must be submitted to the Purchasing Department, with a written explanation of the circumstances. The Purchasing Department will solicit prices, as applicable and time permits, and authorize the purchase.

IX. WAIVER OF COMPETITIVE PURCHASING

As prescribed in these policies, it is North Carolina statutory preference that competition be sought in all purchases. The university in its purchasing program with few exceptions applies this principle.

Where conditions, circumstances, and the public interest do demonstrably warrant, the North Carolina Administrative Code (T01:05B.1401) provides that competition may be waived under explicit circumstances. The Purchasing Department's concurrence in waiving the requirement for competition must be obtained and documented in the purchase order file. Such a determination will rest on the actual nature of the campus department's requirement and the validity of the need to extend the waiver.

General conditions for such a waiver include small purchases, emergency procurements, and single and sole source procurements. The waiver of competition process, like single and sole source purchases, is infrequently used and may be subject to the requirement for substantial justification by the campus department.

Among the instances addressed by Administrative Code explicit circumstances that may permit the Purchasing Department to exempt competition include the following:

- A. Where a needed commodity or service is documented as available from only one source of supply;
- B. Where standardization or compatibility is the overriding consideration and its absence will adversely impact the mission or function;
- C. Where a grantor or donation predicates the source of supply and such a condition is specifically defined in the awarding document (i.e., research grant or contract) but the grantor or donor is not the source;
- D. Where a valid emergency exists such that any further delay in procuring the goods or services is detrimental to the university;
- E. Where additional commodities or services are essential to the completion of an ongoing job or task under which any substitution will negatively affect the desired outcome;
- F. Where a particular commodity or service is required for recognized experimental, developmental, or research work;
- G. Where the requirement is for an authorized cooperative project with other governmental unit(s) or charitable non-profit organization(s);
- H. Where equipment is already installed, connected and in service and it is determined advantageous to purchase such equipment;

- I. Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, that thwarts normal bidding procedures;
- J. Where personal or certain professional services are required that are unique to its provider;
- K. Where a recent competitively placed purchase provides a satisfactory price and can be reasonably extended to the instant requirement. Note that "recent" is generally defined as within the past sixty days; and
- L. Where a purchase is made directly from a nonprofit work center for the blind and severely disabled and the requirement is not otherwise available from a State Term Contract.

X. SOLE AND SINGLE SOURCE PURCHASES

Sole and single source purchasing is an exception to State statutes and purchasing policies. The final determination as to whether such an exception request is valid will be made by the Purchasing Department and rest on the existence of a valid supportable requirement which is adequately documented. Requirements exceeding the university purchasing benchmark (\$50,000) will be forwarded to the State Purchase and Contract for processing and, if deemed justifiable, will be certified as "single" or "sole source" and purchased without recourse to formal solicitation.

Sole source and single source purchases are segregable in definition and use. The common thread, however, through each type of purchase is that a justification to procure from a sole or single source cannot be solely based on quality or price. (Quality can be a subjective evaluation and pricing subject to the level of competition.)

A. Sole Source

Sole Source applies when it can be substantiated that a requirement involves commodity or service provided by only one vendor or contractor having exclusive rights (e.g., rights to data, patent or copy rights, proprietary interests, or secret processes) to the manufacturing of the product or service. Sole source requirements must withstand two questions: (1) Is the commodity or service the only one of its kind that can fully satisfy the requirement? (2) Is the commodity available from one and only one source? In this context, "sole" means the only one.

- 1. Single Source applies when it can be substantiated that a commodity or service can be obtained only from one vendor or contractor that often is the single representative of the manufacturer or principal company. Single source

purchases frequently involve a vendor or contractor whose product or service is discernibly distinguishable from all others in the market and singularly meets all significant elements of the university's requirement. In this context, "single" means "the one among others."

- 2. Brand Name specificity does not necessarily equate to a "Sole Source" or a "Single Source" purchase. "Brand Name" requirements typically are peculiar to one manufacturer but not one supplier. Accordingly, "Brand Name" requirements may not satisfy the criteria of either "Sole Source," or "Single Source" practices as several vendors or contractors may be able to provide the product or service, and therefore, the requirement can be competitively awarded. Purchasing specifications, in this instance, will provide for "Brand Name or Equal" specifications that identify the important features of the requirement in a non-restrictive manner.

3. Comparable is defined as equal in those specific areas of specification or performance that must be provided to allow the commodity's use or service to be provided as it is intended or required. That is, a product or service may be argued as "comparable" when it meets the key specific levels of function although it does not explicitly meet all specifications. In this context, "comparable" may be acceptable.
4. University Standard determinations may apply and support a "Sole Source" or a "Single Source" purchase where it can be clearly demonstrated that the university has formally adopted the particular commodity or service for campus-wide required use and standardization. Such a "standard" is typically published in some form of university document.
5. Performance Specifications are to be used, whenever feasible, to describe requirements. Performance specifications detail an expected outcome or result rather than the processes required arriving at the outcome or result and, as such, contributing to competition.

State Purchasing policy provides for exclusionary purchasing practices that can be avoided by writing specifications which invite maximum reasonable competition and are not unduly restrictive. Accordingly, requirements submitted for purchasing are to be accompanied by specifications which encourage competition, consistent with the particular need.

B. Request for Exception

Both "Sole Source" and "Single Source" purchases must be able to withstand the scrutiny of the test of "no alternatives." The submittal of such a request and its documentation represent a good faith certification on behalf of the campus department and the signator as well as the ability to substantiate the request and sustain any inquiries.

The determination as to whether to accept and act upon a "Sole Source" or "Single Source" request relies on the reasonability of the request and the clear demonstration that the campus department has completed a comprehensive market survey where the investigation, evaluation, and documentation of alternative sources and products or services leaves no doubt as to the course which the university has elected in the purchase. Key to this research is the use of specifications which only state the important aspects of the requirement and can provide for the purchase of the minimally acceptable quality necessary to perform a given task or function satisfactorily at the lowest fair and reasonable cost.

"Sole Source" and "Single Source" requests are not to be submitted in the following instances:

1. Personal preference for a product, brand, or vendor exists.
2. Costs, vendor performance, and delivery are the justification; these elements are considered in the evaluation for award factors.
3. The statement of "no substitution" is the only rationale.
4. Lack of planning exists on behalf of the requiring department.
5. The justification is solely based on quality or price and immediate availability for delivery.

6. Offers of trade-in allowances, no cost options or accessories, or special “package” or “deals” are made.

C. **Documentation of Request**

Where there is a reasonable basis to conclude that the minimum needs of the university can be met by unique commodities or services only from a “Sole Source” or “Single Source,” the campus department will accompany its submittal with a memorandum which addresses the following items:

1. A statement to the fact that the campus department/individual recognizes that State purchasing practices require the use of competitive means whenever practicable; but that an exception is requested for the reasons recorded in the memorandum.
2. A thorough explanation as to how it has been determined that the criterion of “Sole Source” or “Single Source” applies to the requirement. The definitions of these conditions provide the baseline for this narrative as well as the description of the market survey and its results.
3. An explanation as to whether the requirement can or cannot be purchased from another vendor or contractor. Identify all other vendors or contractors included in the “market survey” and their commodities or services as well as explicitly specify their reason(s) for unacceptability.
4. An explanation as to those features of the requirement, which are considered unique and essential to the mission and in the operations of the campus department. Relate these features to and describe the mission or operation and the item’s use.
5. Describe any performance features and address their availability otherwise in the market. Discuss “comparable” products or services and detail why these are not acceptable.
6. Describe any integral nature of the requirement that lends itself to being compatible with existing equipment or practices. Specifically address requisite technical specifications and any associated research protocol, instructional goals, etc.
7. Describe how the specified purchase will contribute to any issue of commonality and standardization.
8. Discuss any appointment of a “sole regional manufacturer’s/company’s representative” and evidence of such with the manufacturer’s/company’s statement to this effect on its letterhead.
9. Attach any and all copies of correspondence, including any vendor quotations received in the selection of requirement.

When a “Single Source” requirement entails the purchase of a commodity or service from a vendor who has been appointed as the manufacturer’s sole regional representative, the purchase must be documented by the manufacturer’s own signed certification and statement of such fact on its letterhead. This statement must be issued by the manufacturer’s corporate headquarters, not a regional office, and be secured by the requiring department. All documentation must be sent to Purchasing.

XI. PURCHASING OF NEW VERSUS USED AND DEMONSTRATOR EQUIPMENT AND PURCHASING OF TRIAL EQUIPMENT

A. New Versus Used Equipment

General purchasing practices prescribe the acquisition of “new materials,” North Carolina state policy, however, provides that “used” equipment, materials, or supplies may be purchased when such purchase is in the public interest and the competitive process is used. When a campus department has a special need for a particular item which may avail itself of this allowance, the advantages of doing so are to be fully documented in the campus department’s requirement submittal and the proposed purchase discussed with the Purchasing Department.

The Purchasing Department’s solicitation of the requirement will allow for the offer of both “new” and “used” items to assure an equitable evaluation baseline. This evaluation will assess whether the value of a “used” purchase is reasonable, given the expected usefulness of the item remaining, any warranty or guarantee extended with the “used” item, and the incremental cost to step up to a “new” item and its associated benefits.

Additionally, policy provides that all used equipment purchased must carry a “new” warranty, except those items purchased from State and Federal Surplus Property.

Definitions that are relevant in these decisions and should be used selectively to clearly identify the type of requirement are as follows:

1. “New”: Never used and with a “new” full warranty period.
2. “Used”: Normally purchased “as is, where is” with no warranty or guarantee.
3. “Newly Manufactured” or “Factory-Produced New”: Previously manufactured and used as another model after which the item is brought into the remanufacturing facility and made into a “new” model meeting “new” standards and tolerances with a “new” warranty. This description is often identified as “like new”.
4. “Factory Remanufactured”: Previously used and returned to a remanufacturing facility and, using new and use parts, is brought up to standards and may extend a “new” warranty.
5. “Reconditioned” or “Refurbished”: Cleaned and repaired to a state of usefulness by the manufacturer or a dealer with little, if any, warranty.
6. “Demonstrator”: Equipment which previously was “new,” “remanufactured,” or “reconditioned” and used in some form external to the campus by a vendor to demonstrate operations, functions, and capabilities to other potential customers. Note: Often companies will offer “Demonstrator” equipment at special prices under “New” warranty conditions. Offers of this type are usually worthy but cannot be accepted without providing for such an allowance in the competitive solicitation of the requirement.

B. Purchase of Trial Equipment

When a campus department has the specific need to subject a particular piece of equipment to a trial period prior to making the decision to purchase such, or “fly before you buy,” the campus department will coordinate such a need with the Purchasing Department prior to any arrangements being made with the vendor. Concurrence by the Purchasing Department in a trial period does not waive any statutory or regulative requirements otherwise imposed on the university - specifically, the requirements for competition and full justification of non-competitive purchases. Failure of the campus department to secure the Purchasing Department’s concurrence in the trial may cause a personal liability to fall upon that individual(s) initiating the trail.

The campus department shall secure a purchase order for any trial equipment. The purchase order will provide for the trial and disclaim any assumption of liability on behalf of the university to purchase the equipment upon conclusion of the trial period (as prescribed in the purchase order) or assume responsibility for the security of the equipment in the case of loss or damage. The purchase order will encumber \$1.00 of the campus department’s money but will not process for payment as so noted on the purchase order. Any purchase of the trial equipment will be executed by issuing a change order against the purchase order.

XII. PROTEST OF AWARD PROCEDURES AND VENDOR DISPUTES

In the preparation of requirements and specifications and the solicitation of such, all efforts should be made to avoid creating any conditions which may contribute to the protest of an award. Should, however, a protest occur, it is the university’s policy to resolve protests effectively at the lowest administrative level possible and to maintain integrity and confidence in the university’s purchasing processes.

The North Carolina State Agency Purchasing Manual provides general guidance for protest procedures. Additionally, North Carolina law prescribes that any protests or dispute should be settled through informal procedures in preference to formal administrative procedures, which incur additional costs and time.

The protest of award procedures of the university adheres to these principles.

“Protest,” as used in this policy, means a written objection by an interested party to a solicitation for offers as to matters that may affect a proposed award. “Dispute,” as used in this policy, is a written objection to issues, which may administratively arise during the performance of a purchase order. “Protestor” means an actual or prospective offeror/bidder whose direct economic interest would be adversely affected by an award or by the failure of an award to be made. To be considered a valid “protest,” the objection must be submitted in writing to the university as specified herein and to no other party and must adhere to the guidelines of the university’s protest procedures.

A. Conditions for Protest

Protests of award generally result from the existence of specifications or terms and conditions in a solicitation assessed by a prospective vendor or contractor to be preferential or unobtainable. Protests may also result from the challenge of an award to a specific vendor or contractor, that is assessed by another prospective vendor or contractor as not having the capacity and/or capability to perform the award as specified.

Protests may be filed for cause or for conditions which are apparent in the solicitation no later than 15 consecutive calendar days from the date of the protested award. When a

protest is filed prior to an award, the protest shall not be considered, the award shall be made, and the interested party shall be so informed in writing.

To be considered fully, protests must clearly contain and address the following elements:

1. Name, address, and telephone number of protestor.
2. Solicitation number or purchase order number and date affected by the protest.
3. A detailed statement of the factual grounds for the protest accompanied by copies of all relevant documents. This statement must contain specific sound reasons, and any supporting documentation for why the party is protesting an award must be attached.
4. A concise statement as to the form of relief requested by the protestor.

B. Protest Resolution Procedures

The Purchasing Director is appointed as the university's designee for protest resolution.

A protest of award must be filed by a protestor within 15 consecutive calendar days from the date of the protested award to the Purchasing Department. Filings not made within this period will not be considered. A copy of filings meeting this time requirement will be furnished to the Purchasing Director within 5 consecutive calendar days of receipt.

Following the receipt of a protest, the protest will be immediately provided to the Purchasing Director, who will direct the research of the protest and prepare findings and conclusions.

1. If the letter of protest does not contain the information required of a protesting party, the Purchasing Director may refuse the protest and so inform the protestor in writing within 5 consecutive calendar days of the receipt of the protest. Such a decision will be coordinated with the university Legal Counsel. A copy of such will be provided to the Legal Counsel and the State Purchasing Officer upon its release.
2. If the protest shows merit, the Purchasing Director may convene a fact-finding meeting with the protestor to determine fully the nature of the protest and to make an initial attempt to resolve the disputed conditions. Prior to such a meeting, the Purchasing Director may seek the Legal Counsel's opinion as well as factual statements from the requiring department. It will be the preference of the Purchasing Director to bring the protest to a conclusion (by mutual agreement) at the time of its meeting with the protestor without inhibiting the proposed award or nullifying the actual award.

Should this fact-finding meeting not resolve the protest, the Purchasing Director will confer further with the Legal Counsel as required and determine whether to conduct a protest meeting with the protestor or to issue a written decision to the protestor. The latter may be elected where the protest does not contain the information required of a protestor or if the Purchasing Director determines that a meeting would serve no purpose. Such a decision will be coordinated with the Legal Counsel and a copy of such provided to the Legal Counsel and the Purchasing Department/Director upon its release.

When a protest meeting request is granted, scheduling of the meeting will be attempted within 15 consecutive calendar days of receipt of the protest. The Purchasing Director's

written decision will be issued within 5 consecutive calendar days from the date of the protest meeting. Such a decision will be coordinated with the Legal Counsel and a copy provided to the Legal Counsel and the Purchasing Director upon its release.

If the Purchasing Director's written decision is appealed (within the university purview), a response will be tendered from the Office of the Associate Vice Chancellor for Business and Finance but only upon the receipt of the protestor's formal written appeal. Such an appeal must be submitted to the Associate Vice Chancellor's Office to be accepted. The Associate Vice Chancellor may elect an additional meeting with the protestor prior to the university issuing any further final written decision.

In the case of an appeal, the Associate Vice Chancellor shall render the final decision to the protestor. This action may be preceded by a briefing of the Vice Chancellor for Business and Finance. Such correspondence will clearly evidence that it is the "final decision" and fully prescribe the final resolution.

C. **Vendor/Contractor Dispute**

Disputes may arise during the performance of a purchase order. Such a grievance typically results from decisions made while administering a purchase order, is initiated by the vendor or contractor performing the order, and represents the lack of agreement by the vendor or contractor in a decision rendered by the university.

To be considered formally, the dispute must be submitted in writing as a claim and demonstrate a demand or assertion seeking, as a matter of right, the payment of monies, the adjustment or specific interpretation of the purchase order terms and conditions, or some other form of relief.

"Claims" will be addressed as prescribed at Protest Resolution. The principles of protest handling will be applied in claims resolution. Claims regarding the text of a purchase order or its performance will be addressed using the following order of precedence (a) the proposal form (excluding the specifications); (b) the representations; (c) clauses, provisions, and terms and conditions; (d) other documents and attachments; (e) the specifications; and (f) the drawings.

XIII. RECEIVING ORDERED MATERIALS

Receipt, inspection, identification of exceptions, and acknowledgment for payment are key processes to a purchase. Upon receipt of a purchased item, FSU Warehouse/Central Receiving is responsible for inspecting the delivered materials, noting the condition and quantity of items received, checking for visible damage, and recording any discrepancies or damages on the bill of lading.

A. **Acknowledgment of Receipt to Accounts Payable**

If inspection of merchandise received indicates that all items ordered have been received and are in good condition, acknowledgment of receipt should follow, by performing an online receiving report (the preferred method of receiving), or forwarding a signed receiving copy of the purchase order to Accounts Payable. Note: Online receiving is much more expedient than any paper submittal and provides for many of the exception receiving processes that are discussed below in an easier electronic format.

If a partial shipment has been received and the vendor has indicated on the packing slip that items have been back ordered, a photocopy should be made of the purchase order receiving copy and sent to Accounts Payable. These documents are to indicate solely

those items that were received. Upon receipt of the remainder of the purchased items, a second copy to the purchase order should be sent to Accounts Payable indicating such.

B. Notification of Discrepancies to Purchasing Department

If during inspection of shipments, damages or discrepancies are found, a report should be made to the Purchasing Department as soon as possible. This notification is equally important for latent or concealed damages which are discovered after removal of items from packing materials.

If damages are discovered, all packing materials and the shipping cartons should be kept until an inspection report is received from the shipper and instructions are obtained as to the disposition of the damaged materials. The Purchasing Department will correspond with the carrier and/or vendor concerning credit for, or replacement of, the damaged merchandise.

C. Returns to Vendors

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

Campus departments desiring to return materials to a vendor should notify the Purchasing Department, giving the reason for the desired return. The Purchasing Department will secure permission from the vendor for return of the materials and obtain shipping instructions. The Purchasing Department will notify the campus department concerning the vendor's return instructions and Accounts Payable concerning the credit memo.

As the return of merchandise may occur for a number of reasons, the associated financial responsibility or liability will depend on the reason for the return. Generally, when materials are defective, freight charges and other costs involved are the responsibility of the vendor; otherwise, the campus department for which the return is being made may bear the cost involved. Most vendors will charge at least a 10% restocking charge when merchandise is returned as a result of an over purchase or when the university made an error in requesting materials.

D. Delivery within the Fiscal Year in which the Purchase is Made

University policy requires that a delivery must be made and acceptance acknowledged prior to any payment being made for goods or services. To obtain delivery prior to the end of the fiscal year in which the purchase is made, the following procedure should be followed:

Since delivery on many equipment items may require as much as six months or more and furniture items six to eight weeks, such purchases must be accomplished as early in the year as possible. The cutoff of purchases occurs March 31st for equipment and furniture and April 30th for supplies. These facts do not preclude the placement of such purchase orders late in the fiscal year with Vice Chancellor of Finance and Business approval and Purchasing verification of delivery within fiscal year.

XIV. PRICING DEVIATIONS

Campus departments are to be attentive to any changes in purchase order prices as reflected on a vendor's invoice. The university will issue payment for the price recorded on the purchase order unless the following circumstances exist:

- A. Where there is a pricing deviation under invoiced unit price which will increase the amount paid no greater than 10 percent.
- B. The purchase order is not a "Quote Order" or a State Term Contract order. (Pricing under these types of orders must show no deviation.)
- C. When the pricing deviation affects a "Quote Order" or a State Term Contract order or exceeds the allowable variance for the particular type of purchase order, the campus

department must concur in the deviation. The Purchasing Department will initiate the necessary actions by contacting the vendor for an explanation of the deviation. If the vendor's justification is reasonable, the Purchasing Department will contact the campus department to discuss the change in price. In lieu of accepting the price deviation, the campus department may decide to return the merchandise to the vendor. The process of returning the merchandise will be accomplished through the Purchasing Department. The campus department may decide to retain the merchandise and assume the additional cost. In such a case, the campus department will initiate a "Request for Change Order" form.

The Request for Change Order will be prepared by the campus department and submitted to the Purchasing Department. The Purchasing Department will act on the Request for Change Order as authorization to proceed with the change and distribute copies of the change order as necessary. Note: These same procedures apply when there is a quantity deviation.

If the vendor's justification is not accepted, the vendor will be requested to forward a corrected invoice showing prices as indicated on the purchase order.

When a vendor notifies the Purchasing Department of a pricing deviation (especially an increase) prior to delivery or performance, the Purchasing Department will first contact the campus department to determine the department's desire to complete the order at the additional cost. If the campus department agrees to incur the additional cost, a Request for Change Order will be prepared and forwarded by the campus department to the Purchasing Department for issuance of a Change Order as prescribed above.

When the pricing deviation is caused by the incurrence of a freight charge, the university will pay the invoiced freight charge if it appears reasonable and is not a "Quote Order" or State Term Contract Order. Where multiple shipments exist, multiple freight charges may be incurred.

XV. PURCHASE OF PRINTING SERVICES

A. Placement of Printing Requirements: On-Campus or Commercial

With the exception of Public Relations and Marketing, all other units must have their printing and duplicating services requirements coordinated by the FSU Print Shop to determine whether the requirement can be satisfied using the university's resources. In addition to specific printing capabilities, the university's Print Shop provides many printing and binding services such as collating, perforating, stapling, hole punching, and padding.

Printing needs should be discussed and scheduled far enough in advance of the due date to ensure sufficient time to complete the job. Sufficient lead time to complete the purchasing process, initial proof approvals, and any revisions is essential particularly considering that the printing production time frames for local commercial vendor printing and for purchases placed through State Purchase and Contract may be unpredictable.

When campus departments anticipate using the FSU Print Shop to meet their printing needs, they are encouraged to establish an annual open purchase order.

The FSU Print Shop will assist when it is necessary to have work accomplished by a commercial printer. The Print Shop expertise in printing specifications and design is a major asset in accomplishing the best commercially printed publication. The FSU Print Shop will coordinate recommendations for award of requirements it solicits or will act as an agent of the campus department to the Purchasing Department. Following the solicitation process, the Print Shop and Purchasing Department will forward all proposals/bids to the respective campus customer for review and recommendation for award. The campus department's recommendation will form the basis for the issuance of a purchase order either upon receipt, if solicited by the Print Shop or Purchasing Department, or upon approval by the State Board of Award if solicited by the State Division of Purchase and Contract.

The State imposes the following requirement on printing and publications in addition to the "constraints" defined below:

1. Design work is considered to be a separate effort from printing for which competition must be solicited as applicable. Additionally, the designer of an item may not be considered as a source for its printing.
2. The Department of Correction Correctional Enterprise will be used when it is able to satisfy the requirement and the price is competitive.

B. Public Document Constraints

The term "public document" means any annual, biennial, regular or special report or publication of which at least 200 copies are printed, not to include intra-agency communications or correspondence.

C. Multicolor Process

Expending State (or public) funds for a multicolor process (commonly interpreted as 4-color process printing) to print (to include the use of color photocopiers) a "public document" is prohibited unless the following standards are met:

1. In case of scientific illustrations when the illustrations would be unintelligible if published in black and white.
2. When the express approval of the State Division of Purchase and Contract is obtained.

Campus departments requiring the use of the multicolor process in a requirement under these definitions will document the need for the process in its requisition submittal. The actual printing of these requirements may be subject to the approval of the State, and campus departments should plan accordingly. University publications, which are directed at the recruitment and retention of students, are specific examples when this process is necessary and essential to the impact which the publication is expected to have on its audience.

1. Cost of Public Document

All printed public documents, other than those published with the explicit purpose for sale to the public or unless otherwise exempted for reason, will include the following statement in their final printed format:

“(number of) copies of this public document were printed at a cost of \$ ____, or \$ ____ per copy”

The term “cost” includes all printing costs associated with the labor, materials, design, etc., of the publication. Any public document without such a statement of cost will not be mailed nor distributed at public expense.

XVI. DEALINGS WITH VENDORS

A. Contact with Vendors during Solicitation and Proposal/Bid Review

Campus departments are reminded and cautioned that, during the period of evaluation and prior to award, possession of the proposals/bids and accompanying information is limited to personnel of the State Division of Purchase and Contract, the university Purchasing Department, and those who are specifically responsible for review and evaluation of the proposals/bids. There must be no vendor participation in the review and evaluation, and no information may be furnished to vendors regarding the status of the evaluations. All vendor contact, particularly for proposal/bid clarification, shall be made by the Purchasing Department.

B. Correspondence with Vendors

Following the transmittal of a purchase order to a vendor, all correspondence in connection with the fulfillment of the order or contract will be handled by the Purchasing Department. Campus departments should notify the Purchasing staff of any matters they feel necessitate correspondence.

If delays or problems with delivery are encountered, campus departments are to contact the Purchasing Department. The Purchasing staff will then contact the vendor and notify the campus department of the resolution.

C. Complaints to Vendors

Complaints about products received (such as shortages, damages, late shipments) should be routed through the Purchasing Department. When a vendor repeatedly provides poor service and/or merchandise does not meet written specifications to the extent that work is hampered, campus departments are to forward specific complaints to the Purchasing Department. The complaint must be submitted in a written memorandum or letter and clearly explain the conditions, which generated the complaint. The Purchasing Department will complete the “Complaint to Vendor” form and transmit such to the State Purchase and Contract Division or take appropriate action directly with the vendor. Campus departments are urged to make written complaints when justified. If a vendor receives an excessive number of complaints, the State Purchase and Contract Division or the Purchasing Department may refrain from considering the vendor as a “source of supply” for any new requirements or when compiling source lists.

D. Sales Calls by Vendors

Sales calls are to be limited to keeping the campus department informed of new items being introduced and to providing information on various aspects of their product(s).

Receipt of equipment for demonstration and evaluation purposes is permissible provided no obligation is made to the vendor to purchase the equipment.

E. **Product and Service Demonstration by Vendors**

1. **When Requested by Vendor**

Occasionally, vendors may request that they be allowed to demonstrate a new product line or a new service. The university does not prohibit this type of demonstration; however, arrangements for space for such demonstrations must be made with the appropriate department head and through the Purchasing Department. The vendor will be responsible for all expenses incurred in the demonstration. The university will not accept any responsibility for the safety of vendor equipment nor obligate itself to any purchase from the vendor as a result of the demonstration.

2. **When Requested by the Campus Department**

A more common type of demonstration is that requested by a campus department from a vendor of a particular piece of equipment. In these instances, the arrangements are to be made between the campus department and the vendor. Prior to making arrangements for such a demonstration, the campus department should coordinate with Purchasing Department and the university Fixed Assets Section to determine if a similar product is available from a contract source and, otherwise, used on campus or required by another campus department. All expenses incurred from these demonstrations are the responsibility of the vendor. The university will not accept any responsibility for the safety of any vendor equipment nor obligate itself to any purchase from the vendor as a result of the demonstration.

3. **Purchase after the Demonstration**

The demonstration of equipment to a campus department or to an individual in no way obligates the university to purchase or lease the equipment or service. Any purchase requests issued after demonstrations will be processed in accordance with the normal purchasing regulations of the university and State.

4. **Evaluation of Equipment for Vendors**

From time to time, vendors may request that a campus department evaluate equipment without obligation to purchase. When a vendor offers equipment for evaluation and the campus department is willing to have the equipment installed for evaluation purposes, the campus department should request that the Purchasing Department secure a written agreement with the vendor using the following basic guidelines:

- a. The equipment must be adequately identified and described, giving model and serial numbers.
- b. All shipping charges and associated liability are to be paid and assumed by the vendor.
- c. Insurance, if any, is the responsibility of the vendor. The university assumes no liability for the equipment. The university may agree to exercise normal operational care and to avoid abuse of the equipment.
- d. At the end of the evaluation period, the vendor will be responsible for crating, removal, and shipping of the equipment.

- e. The evaluation of equipment for a vendor does not grant the vendor permission to use the name of the university in any advertisement or as an endorsement.

XVII. REPAIR OF EQUIPMENT

A. Repair of In-Warranty Equipment

Most new equipment is warranted by the manufacturer for a period of time against faulty parts or workmanship. Such equipment is generally supplied with a warranty card which is to be completed and returned by the campus department to the manufacturer as soon as the equipment is received. Unless this warranty card is returned promptly, some manufacturers will not accept liability for the repair or replacement of the equipment. In the case of equipment obtained by solicitation, the warranty specifications will be spelled out on the solicitation, the offeror's/bidder's response, and the purchase order.

The campus department owning the equipment may originate a request for in-warranty service or, if the campus department chooses, the Purchasing Department will contact the vendor for service of equipment. When submitting the service request, the campus department should furnish the number and date of the original purchase order and the nature of the defect.

The Purchasing Department will communicate with the vendor for instructions on handling the warranty repair. If return to the vendor is necessary, the campus department will be responsible for forwarding the equipment to the vendor. The campus department is not to return the equipment until shipping instructions are obtained from the vendor.

The vendor repairing the equipment will return the repaired equipment directly to the campus department. Accordingly, the campus department is to provide the vendor with its complete address, including the name of the person in charge of the equipment, room number, and the name of the building. Any freight or service charges not paid by the vendor will be billed to the campus department by the vendor after the transaction is completed.

B. Repair of Out-of-Warranty Equipment

Repair of out-of-warranty equipment is paid for by the campus department on a per-call basis. Requests for out-of-warranty service not covered by a service or maintenance contract should be initiated by the submittal of a purchase requisition to the Purchasing Department once thorough estimates of repair costs are obtained.

In instances when a firm fixed-price estimate is not available, the Purchasing Department may issue a "Not to Exceed (NTE)" purchase order for the repair. Such a purchase order authorizes repair to proceed under a specified dollar limit; this limit may not exceed this amount unless amended by a purchase order change order issued by the Purchasing Department. Additionally, when conditions warrant, the purchase order may provide for a tear-down-quote where the campus department is not obligated to proceed with a repair if the initial tear-down and inspection demonstrates that the costs of repair will exceed the value of the equipment or the campus department elects not to proceed.

The equipment to be returned for repairs should be returned to the company by the campus department in accordance with the repair facilities shipping instructions.

XVIII. EQUIPMENT TRADE-IN

Some used equipment has value when used as a trade on the purchase of new equipment of the same type. When a campus department wishes to trade in used equipment, a request must be made of the Purchasing Department and included in the purchase requisition for the affected new equipment.

The existing equipment to be affected by the trade in request is to be identified by year of acquisition and production (if known); original or initial acquisition cost(s); model number; serial number; description; and university fixed asset number (if equipment is recorded in fixed assets). If the equipment to be traded in has been capitalized in the Fixed Assets System, then the campus department will forward the Fixed Asset Disposal Form to the Purchasing Department. The Purchasing Department will sign the form confirming a trade in occurred and forward the form to the university's Fixed Assets Section.

If the university deems this trade in desirable, the Purchasing Department will request approval from the State Surplus Property Division. Prior to request for approval, the Purchasing Department must have a written quotation of the trade-in allowance offered by the vendor. Only if approved by the State may the university offer the existing equipment as a trade in of the purchase.

XIX. EXCISE AND SALES TAX

Fayetteville State University, being an agency of the State of North Carolina, is exempt from federal excise tax. The Purchasing Department must furnish the State of North Carolina Exemption Number to vendors for items subject to federal excise tax.

All State entities are exempt from sales tax on direct purchases of items except electricity and telecommunications services.

XX. EQUIPMENT SERVICE CONTRACTS, LEASING AND LEASE-PURCHASE

A. Equipment Service Contracts

Most equipment generally requires service to continue in proper operating condition. For equipment which cannot be serviced on campus, such as specialized scientific apparatuses, copiers, etc., it is often more economical to arrange for a service or maintenance agreement with the manufacturer or service agency. The cost of service on the equipment, which must be borne by the campus department, usually includes charges for the service calls, labor, and parts each time repair or maintenance is required. Parts are usually covered in a service agreement; therefore, the savings on service calls and labor charges can make the lump sum payment for a service agreement very reasonable.

Service agreements for individual pieces of equipment should be requested on a purchase requisition along with a copy of the vendor's service agreement. Justification for a service agreement may be requested by the Purchasing Department when the costs appear exorbitant.

When lump-sum equipment service contracts are executed by the Purchasing Department, the campus department will normally pay for the entirety of the service prior to performance. Nothing of value is received until such time as an equipment failure occurs or contractual preventive maintenance is performed. The execution of the purchase order written for lump-sum equipment service contracts, thus, serves as the authority for payment of the vendor's invoice.

Service agreements should normally be arranged to coincide with the beginning and ending dates of the fiscal year. When agreements are begun after the beginning of the fiscal year, the agreement should be pro-rated to end no later than the final day of the fiscal year.

B. Leasing Versus Purchase of Equipment

The leasing of any equipment will be accomplished using the same procedures as with purchasing equipment. Competitive procedures and associated regulatory and guidance practices will apply.

Prior to pursuing an extended lease of any equipment, however, the campus department shall accomplish a lease-versus-purchase comparison. Such a comparison must clearly demonstrate that it is more cost advantageous to the university and the State to enter into a lease in lieu of making a purchase.

This justification will address the "life-cycle" costs which may be imposed by both a lease and a purchase. Cost elements to be addressed, as a minimum, by this cost study will include initial acquisition cost; initial (supplies) start-up costs; repetitive maintenance; and sustainment (supplies) costs. This study should assume a three-year baseline for applying costs.

C. Lease-Purchase Agreements

Lease-purchase agreements may be permissible but are not encouraged as they are viewed by the State as "negative spending." The State Advisory Budget Commission prior to acceptance must approve any request for a lease-purchase agreement.

The burden of justifying such a lease-purchase request lies on the campus department. As such, lease-purchase should only be considered as an alternative to outright purchase when extremely large sums of money are involved.

Any justification must be accompanied by a supporting lease-purchase versus purchase comparison. Such a comparison must clearly demonstrate that it is more cost advantageous to the university and the State to enter into such an arrangement.

XXI. CONTRACTUAL SERVICES AND INDEPENDENT CONTRACTOR SERVICES

A. Contractual Services

Defined as work performed by an independent contractor requiring specialized knowledge, experience, expertise or similar capabilities wherein the service rendered does not consist primarily of acquisition by the State of equipment or materials and a service for the review, analysis, or advice for implementing improvements in university programs or services.

It is the general policy of the university to acquire contractual services (including equipment service contracts) by seeking competition.

The following types of services are generally exempt from adherence to procedures for securing contractual services:

1. Services provided by individuals by direct employment contracts with the State.
2. Public utility services (gas, water, electricity, phone, cable).
3. Services which are merely incidental to the purchase of supplies, materials, or equipment.
4. Contracts for construction of and structural changes to public buildings.

5. Personal services provided by doctors, dentists, attorneys, architects, professional engineers, scientists, or performers of the fine arts. (A personal service shall be interpreted to be the occasional or temporary use of an individual's professional skills to perform a professional task.)
6. 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.
7. Any other service designated to be exempt by the State Purchasing Officer or his authorized representative.

Prior to a campus department seeking to obtain a contractual service, the following determinations should be made:

1. Funds are available to cover the total cost of the service,
2. The desired level of quality of the service is adequate and reasonable for the purpose intended,
3. All rules, regulations and procedures referred to herein have been or will be complied with, and
4. Obtaining the service is in the best interest of the university.

B. **Independent Contractor Services**

Defined as work or tasks performed by an independent contractor possessing specialized knowledge, experience, expertise, and professional qualifications to investigate an assigned problem or project and to provide counsel, review, analysis, or advice in formulating or implementing improvements in programs or service, to include planning, directing, evaluation, and operation.

Execution of a contract with an independent contractor will be done with the Chancellor's signature or an official designated by the Chancellor and should include the following:

1. Which services are desired (which will eventually lead to definitive specifications for use in the solicitation),
2. Why the work to be performed cannot be reasonably accomplished by employees of the university,
3. How the work relates to the proper function of the university,
4. What benefits the university expects to receive from the contractor's services,
5. What the university estimates to be the cost of the contractor services, and
6. What potential sources of the contractor's services, if any, the university has identified. If the services are being sought outside state government, detail what potential sources within the government exist and why the services are not available from these sources.

C. **Contract and Payment Processing**

After the individual who initiated the contract within the campus department receives the signed contract, the following steps must be done for timely payments to be made.

1. Complete an online requisition including the contractor's name, contract duration, and payment amounts.
2. Write the requisition number on the contract.
3. Forward signed contract with requisition number to the Purchasing Department.
4. Instruct the contractor to submit a monthly invoice to the campus department's contract administrator for approval.
5. Forward monthly invoice to Accounts Payable.

The Purchasing Department produces a purchase order and distributes signed contract and pink copy of purchase order to Accounts Payable.

Accounts Payable receives approved monthly invoice from campus department, matches invoice with contract and related purchase order from file, and processes payment.

Approved

