

**FAYETTEVILLE STATE UNIVERSITY
PURCHASING MANUAL**

Owner: Business, Finance and Administrative Services

Applies to: University Wide

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Related Policies:

- *FSU Purchasing Policy*
- *FSU Ethical Conduct Policy*
- *UNC and the Division of Purchase & Contract Memorandum of Understanding*
- *NC General Statutes*

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Table of Contents

I. FSU PURCHASING POLICY	2
II. FUNDAMENTAL PURCHASING PRINCIPLES	27
III. MAVERICK SPENDING	28
IV. THE PURCHASING PROCESS	29
V. THE BID PROCESS.....	30
VI. THE RECEIVING PROCESS	32
VII. SURPLUS PROPERTY.....	33
VIII. QUICK LINKS	34

I. FSU PURCHASING POLICY

1. INTRODUCTION

This policy and associated procedures must be followed in carrying out the purchasing process at Fayetteville State University (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 University’s Purchasing Department is committed to integrity and professionalism. The University will follow the regulations and purchasing policies set forth by the state of North Carolina. The Division of Purchase and Contract, a part of North Carolina's Department of Administration, has the responsibility for administering the State's program for the acquisition of property and services where public or grant funds are involved. For most expenditures under \$100,000.00, the University is delegated purchasing authority.

2. AUTHORIZATION AND ORGANIZATION

The Purchasing Department is the sole entity at the University 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.

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. All purchases will be reviewed for compliance.

Only the Purchasing Department is authorized to issue purchase orders and engage vendors for goods and services. Departments must submit a requisition into Bronco eBuy **PRIOR** to receiving goods from suppliers or services rendered. Purchase orders are legally binding agreements with the vendor and the University and only the Purchasing Department has the authority to sign these agreements. Goods and services received and/or rendered without an approved purchase order are considered **UNAUTHORIZED** and become the sole responsibility of the end-user initiating the transaction.

Departments shall not divide orders (split transactions) in attempt to keep them under the \$5,000 small purchase threshold, and thereby avoid the rules requiring the applicable method for competition. Split transactions are a violation of University and State purchasing guidelines.

3. PURCHASE OF CONTROLLED ITEMS

A. 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.

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

B. 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 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.

4. 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 as implemented by the university's Purchasing Policies and Procedures.

Per GS. 116-13, under the following circumstances, requisitions are exempt from approval or oversight of the UNC System Procurement Office, Secretary of Administration or State Purchasing Officer, regardless of dollar value.

(1) The funds used to procure personal property or services are not moneys appropriated from the General Fund or received as tuition or, in the case of multiple fund sources, moneys appropriated from the General Fund or received as tuition do not exceed thirty percent (30%) of the total funds; or

(2) The funds used to procure personal property or services are contract and grant funds or, in the case of multiple fund sources, the contract and grant funds exceed fifty percent (50%) of the total funds.

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 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 section 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, Federal Acquisition Circulars, and Federal Executive Order 12549 also apply.

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. 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.

Federal contracts are subject to the Federal Acquisition Regulation, Part 35 and the Federal Acquisition Circulars. Departments purchasing items from federal contracts will be required to submit certification of compliance with their purchase requisition.

Federal Executive Order (E.O.) 12549 “Debarment and Suspension” requires that all contractors receiving individual awards, using federal funds for \$25,000 or more, and all sub recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government. The purchasing office will review vendor status at least once per year. No purchase order will be generated until the debarment status has been reviewed and approved.

Debarment and suspension information will be included in bid documents funded with federal dollars. If the vendor does not provide debarment certification, or if the web site is checked and the vendor IS on the list (debarred), the purchasing office will place a hold on the award process until the vendor is returned good standing.

5. PURCHASING PRACTICES

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.

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.

The State enters 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 Term Contract. Questions regarding what is available under Term Contract or information concerning vendors under contract should be directed to the Purchasing Department.

Term Contracts offer a vast array of products and services. These items may be viewed at the State Division of Purchase and Contract's website.

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. Historically Underutilized Business Program (HUB)

In support of and in compliance with the Governor's Executive Order No. 25 and Executive Order No. 143, 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.

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

The Purchasing Department will serve as the administrator and coordinator of the HUB Program for Fayetteville State University. Please contact the Purchasing Department for questions or concerns regarding HUB vendors. Or visit <https://ncadmin.nc.gov/businesses/hub> for more information.

E. Purchasing Recycled Products (Buy-Recycled)

In compliance with 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 of product and the closure of the cost variance between recycled content and non-recycled 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. 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.

F. Energy Efficient Compliance

As part of Fayetteville State University's ongoing pursuit of energy conservation, energy reduction, cost containment, and environmental protection, all purchases, to the extent possible, shall be ENERGY STAR certified. All appliances purchased by the University, to include those purchased indirectly through construction or renovation contracts, shall be ENERGY STAR certified in all areas for which such ratings exist.

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 ENERGY STAR-certified computer hardware, these standards specify operating systems, network protocol, and other operational software that are accepted for general use throughout the university.

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 workplace, 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. 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.

I. Immediate Need Purchases

Integral to all purchasing procedures 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". In these specific instances, occasional exceptions may be made to this policy with the prior approval of the Purchasing Department.

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

6. PURCHASING CARD (FSU P-CARD)

The Corporate Visa Credit Card provided through the University’s Purchasing Card Program is issued through Bank of America. Each card is issued in the Employee’s name and includes the University name, logo and tax-exempt number. Purchasing Cards or PCards are issued to permanent FSU faculty or staff and are to be used only by the named cardholder. The Purchasing Card is essentially a corporate VISA card for business use only and allows rapid purchase of low dollar goods. Liability rests with the University instead of the individual cardholder.

Consult with your Department Head or Departmental Budget Manager to inquire about applying for a Purchasing Card. Once you get approval to apply, complete the Purchasing Card Application and send to the Purchasing Card Administrator. Mandatory training is required before Purchasing Cards are distributed. The Purchasing Card Administrator will provide training dates and times. All state purchasing rules and regulations and University policies apply to Purchase Card transactions. Please see check the Materials Management website for the most updated information regarding Purchasing Cards or contact the Purchasing Card Administrator.

7. PURCHASE REQUISITION

Bronco eBuy is the purchasing marketplace for Fayetteville State University. Users access Bronco eBuy for creating, tracking, and/or approving requisitions. The FSU Bronco eBuy marketplace makes the process of purchasing quick and convenient through its browser-based screens. Online catalog shopping, placing requisition requests, purchase order tracking, order history, and other features help departments keep track of the process. Online approvals and electronic distribution of purchase orders to vendors reduces processing time, and paperwork, and provides a cost savings to the University.

Requisitions are transmitted via the Bronco eBuy (Purchase Order & Requisition Tracking) marketplace to the Purchasing Department to request goods and services. Requisitions require departmental and divisional approval in accord with established workflow. Sometimes Grants and IT approval may also be necessary. Once a pre-audit review is complete by the assigned Purchasing Specialist, the requisition is then routed to Banner budget authorization for a final check for funds availability, then a purchase order is created. Requisitions in the amount of \$25,000.00 or more are routed from the Purchasing Specialist to final PR review, then to the Director of Materials Management. Requisitions greater than \$25,000.00 are also required to undergo a Debarred Vendor review. Requisitions within this workflow are routed to Banner budget authorization for final check for funds availability, then a purchase order is created.

8. PURCHASING GUIDELINES

¹ Dollar Value	Rule	Method
\$.01-\$5,000.00 Small Dollar Purchases Note: IT Related Purchases Small Dollar Purchase Threshold >\$25,000	1. State Term Contracts and HUB, if available, are encouraged. If the item is not on State contract, choose one of the following: 2. Bronco eBuy Catalogue 3. Surplus 4. Any non-barred vendor Although only one quote is required, competition is urged whenever possible.	Even though competition is not required, all purchases must be made via a requisition in Bronco eBuy. The FSU PCard is also an approved purchasing method for authorized expenditures up to the cardholder's single transaction limit. When using the FSU PCard, please consult with ITTS prior to purchasing any IT related goods or services.
\$5,000.00-\$25,000.00 Informal Bid process	1. State Term Contracts, if available, are required. HUB use is strongly encouraged. If the item is not on State contract, an informal bid process (3 quotes) will be required.	A requisition must be entered into Bronco eBuy.
\$25,000.00- \$100,000 Formal Bid Process	1. State Term Contracts, if available, are required . If not available on State term contract, a formal bid process will be required. ² HUB vendors must be considered for all formal bid proposals.	A requisition must be entered into Bronco eBuy

¹Dollar Value includes shipping, freight, and any other applicable fees.

²For Historically Underutilized Business or HUB consideration for all formal proposals and other HUB information, please see the following links: <https://ncadmin.nc.gov/businesses/historically-underutilized-businesses-hub>

9. OBTAINING PROPOSALS AND QUOTATIONS

By action of The University of North Carolina Board of Governors, the university's purchasing authority is limited to a \$100,000.00 '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 \$100,000.00. The solicitation of proposals, bids, and quotations for requirements valued at \$100,000.00 or less is generally within the authority and the responsibility of the university.

Contractual services exceeding \$100,000.00 may be solicited by the Purchasing Department, as per NCGS 116-13, but awards are subject to the review and/or approval of the UNC Systems Office, North Carolina Division of Purchase and Contracts, or the North Carolina Department of Information Technology. Public law establishes that it is not permissible to divide requirements to assure a requirement does not exceed \$100,000.00 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 \$100,000.00 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 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 always safeguarded 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. Waiver of Competition

If formal or informal bidding is unable to be performed, the Purchasing Department shall require a completed and signed waiver of competition that includes all requested information as well as a detailed and strong justification. Please note the following justification example:

***Example:** An agency requests to purchase Brand X spectrometers from Vendor Y.*

***(Very) Poor Justification:** Vendor Y is the only available source of supply for Brand X.*

***Good Justification:** The agency lab performs critical analyses for the presence of minute amounts of certain chemicals, and the instruments used must be very precise and well-calibrated. In order to give predictable results across samples, the lab has standardized on Brand X spectrometers and currently uses 7 in its facility. The Brand X manufacturer will warrant the accuracy of its equipment only if it is sold and serviced by an authorized dealer. Vendor Y is the only authorized dealer within 500 miles. Due to the cost of travel and the short response time required if repairs are needed, Vendor Y is the only dealer that can provide service for an economically reasonable price. Attached are service cost estimates for Vendor Y and the next two closest authorized dealers.*

10. 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 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.

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 Manager 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 Manager'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.

11. NEW, USED, DEMONSTRATOR EQUIPMENT AND 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 trial.

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.

12. FSU BRANDING

Only licensed vendors may produce items featuring university trademarks. A complete list of approved licensed vendor and information on how to become a licensed vendor for FSU is available at <https://www.unccfsu.edu/about-us/fsu-leadership/office-of-the-chancellor/communications-and-events/marketing> on the University’s Marketing website. Fayetteville State University is required by law to control the use of its trademarks and control is maintained through allowing only officially licensed manufacturers to reproduce University trademarks. Therefore, items such as apparel and promotional/gift items must use licensed vendors and submit designs for approval PRIOR to production.

All materials produced for the University must conform to the standards set forth in the University Style Guide. A direct link to the guide can be found on the University’s website under

13. OFFICE SUPPLIES

Forms and Supply, Inc. (FSI) punch-out catalog is available in Bronco eBuy. Orders are entered online in Bronco eBuy and are transmitted directly to the vendor upon completion of required approvals. Purchase orders are indicated by a number that starts with “PO” (i.e. P0071234) and internal journal entries are processed to charge these expenses to the end-users’ FOAP code (Fund/Account) entered on the requisition. For assistance with ordering, please contact the Purchasing Department, and for assistance with billing, please contact the Accounts Payables Office.

14. PRINTING

Printing at Fayetteville State University is provided by Bronco Printing Solutions (BPS). BPS is an award-winning, nationally recognized, in-plant printing and graphics service, owned and operated by Fayetteville State University and certified by ACUP (Association of College and University Printers). Because BPS is University-owned, it receives first right of refusal for all

printing, graphics, novelties, etc. The purchasing procedures for BPS is the same as office supplies. Bronco Printing Solutions punch-out catalog is available in Bronco eBuy marketplace. Orders are entered online in Bronco eBuy and are transmitted directly to the vendor upon completion of required approvals. If BPS cannot provide the requested printing, graphics or other products and services, the end-user can proceed with their request per the FSU and State Purchasing and Contracts purchasing policy.

All materials produced for the university must conform to the standards set forth in the University Style Guide. A direct link to the guide can be found here:

http://www.uncfsu.edu/assets/Documents/FSU_StyleGuide.pdf

Please visit University Marketing or more information.

15. PROPELLED EQUIPMENT

Any propelled equipment purchases (lawn mowers, golf carts, etc.) must receive approval from the vehicle equipment department in facility services.

16. ANIMALS

All living vertebrate animals must have Comparative Medicine approval PRIOR to purchase. All rodent, rabbit, and other traditional laboratory animal purchases must be placed by Comparative Medicine. Live animal purchases are prohibited on the PCard. Requests for live vertebrate animals without Comparative Medicine Approval will be denied.

17. RADIOACTIVE MATERIALS

The possession and use of radioactive materials by the University is authorized by the State of North Carolina, in agreement with the U.S. Nuclear Regulatory Commission. Permission to obtain and use radioactive material is granted to a faculty or staff member who can demonstrate, through training and experience, that these materials will be used in a safe and proper manner consistent with all regulations. This permission is granted to a qualified faculty or staff member upon an application to and approval by the University Environmental, Health, and Safety Office (EH&S). The EH&S Office also empowers the Environmental, Health, and Safety Officer to ensure compliance with regulations, and carry out the administrative duties of the Safety Program at the University.

For more information contact, the EH&S Office or visit their website at:

<https://www.uncfsu.edu/faculty-and-staff/divisions-departments-and-offices/division-of-business-and-finance/facilities-management/environmental-health-and-safety>

18. IT PURCHASES-HARDWARE & SOFTWARE

All requests for University technology purchases must be approved by the University's Division of Information Technology Services prior to the purchase. To ensure the security and integrity of the University's computing resources and to be able to provide instruction, consultation and maintenance in a cost effective and efficient manner, the University provides computer purchasing recommendations for standard computer hardware. ITS provides standard software only for University owned computers recommended by the division. Other technology purchases (i.e., peripherals, printers, display systems) should be made in consultation with ITS to ensure

compatibility with operating systems, network protocol, and the software image which are accepted for general use throughout the University. While campus departments are not precluded from purchasing products outside the standard requirement, they should be aware that functionality on the campus network, and support from ITS **may not** be provided for non-standard, stand-alone purchases.

All computer purchases are placed through Bronco eBuy. The FSU PCard is not allowed for IT purchases. Basic purchasing policies and procedures apply.

In response to the necessity to assess software purchases from both a technical and Americans with Disabilities Act (ADA) perspective, the University has established a procedure to facilitate an easier, trackable, and compliant process. All software (hosted/non-hosted, boxed, downloaded, etc.) will need to be assessed and approved for purchase by ITS before your order can be placed.

Please note that some IT requests require the approval of the Fayetteville State University ITAC Committee. Please consult with ITTS for more information regarding ITAC.

19. 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 Central Receiving. 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 via Bronco eBuy. 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.

- D. 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.

- E. 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.

20. VENDOR INTERACTION

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.

A vendor registration form, along with a W-9 form, must be completed for all new vendors. Both forms must be attached to the New Vendor Request in Bronco eBuy. Changes or adjustments to existing vendor information already in eBuy must be submitted via e-mail to the Purchasing Department at purchasing@uncfsu.edu. The Purchasing Department assumes all responsibility for checking the debarred vendor database prior to approving the purchase requisition over \$25,000.00.

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.

E. 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.

F. 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. 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.

21. 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.

22. 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.

23. UNIVERSITY CONTRACTS

At FSU, a "University contract" is defined as an agreement between two (2) or more parties, one of which is the University or any of its subunits, intended to have legal effect. There must be a common understanding among the parties as to the essential terms, there must be mutual obligations, and there must be "legal considerations," meaning that something of value is exchanged.

The term "University contract," as defined by the University, does not include agreements between different units within the University. Examples of University contracts include the following: agreements for the purchase or rental of goods or services (purchase orders); nondisclosure agreements; agreements that set terms for acceptance for gifts; sale, lease, or

donation of University goods or services; liability waivers; settlement of disputes; licenses; student or faculty exchange agreements; memoranda/letters of understanding or cooperation; contracts with hotels, convention centers or other facilities which require a written agreement; instructional agreements; assignment of the right of a person, group, or 2 agency to use the University's name, logo or resources; etc. The above list is not all inclusive.

Agreements are not University contracts if they are entered into solely on behalf of a foundation (including those affiliated with the University), a student organization (except SGA, SACS, etc.), or purely private interests.

A. Delegation Signature of Authority-Contracts

All contracts, to include Professional Services Agreements, shall be reviewed by the Director of Materials Management and approved by the Associate Vice Chancellor for Administration and/or Vice Chancellor for Administration, the Chief Information Officer (if IT related) and the Office of Legal Affairs before being fully executed. All contracts involving information technology shall be reviewed and approved by the university Chief Information Officer. All contracts involving university technology transfer program, such as licenses, options, confidentiality agreements, material transfer agreements and documents required by the US Patent and Trademark Office shall be reviewed and approved by the Office of Legal Affairs. For additional information regarding this policy, please visit <https://www.uncfsu.edu/faculty-and-staff/departments-and-offices/office-of-legal-affairs/policies-and-procedures>

B. How to Buy General Services or Consulting Services

The University's Purchasing Department is responsibility for approving purchase requisitions and issuing purchase orders for all purchase contracts entered for the University, except for rental or real property. This includes all supplies, materials, printing, equipment, and services. For the application of purchasing rules, services are divided into three categories: general services, personal services, and consultant services. All contracts, to include general and consulting contracts, must be reviewed and/or approved by department level management, Purchasing Department, the Division of Business and Finance, and the Office of Legal Affairs. Each are subject to the rules of competition and must be reviewed and approved prior to the receipt of goods or services. Procurement is initiated by submitting a purchase requisition and detailed specifications if required. For questions or concerns regarding contract approval, please visit here:

[https://www.uncfsu.edu/assets/Documents/Office%20of%20Legal%20Affairs/ContractReviewandApproval\[Rev.%2010-17\].pdf](https://www.uncfsu.edu/assets/Documents/Office%20of%20Legal%20Affairs/ContractReviewandApproval[Rev.%2010-17].pdf)

You can also contact the Purchasing Department for assistance in preparing a formal Request for Proposal to obtain competition.

Examples of Services:

- Consulting
- Dining
- Janitorial
- Maintenance

- Printing
- Repair
- Translation Services
- Uniforms

C. Things to Consider When Purchasing Services

Type of Service Required

A complete statement of work. End-user should clearly specify the services that are to be rendered.

Type of Maintenance Contract Required

A complete statement of work for the type of maintenance required as well as the current maintenance contract from the vendor.

The statement of work should include nomenclature of the item, make, model, serial number, location, person to contact and phone number.

Total Dollar Value of Contract over a One Year Period

To determine the appropriate proposal instrument to use i.e., RFQ, RFP, IFB; purchasing will need to know the total expenditures per year. It is the end-user's responsibility to ensure funding is sufficient to cover cost services to be provided.

Request Start and End Dates

It is ideal to have single year contracts commence at the beginning of each fiscal year and end at the end of each fiscal year. Unfortunately, this is not always possible. Single year contracts with start and end dates other than the beginning and end of each fiscal year require funding before, during and after year end closeout. To avoid payment interruptions or budget problems, the end-user should consult with their budget authority to ensure the contracts payment terms are fully captured.

Funding Source

The type of funds used for the purchase.

D. Exceptions for Service Contracting

The following are exceptions to the purchasing definitions and rules cited above: Architect and Engineering Services or other similar services related to building construction, maintenance and repair are arranged through the University's Facilities Services Department. Installation services which are incidental to the purchase of supplies, materials or equipment are acquired under the same requisition used for equipment or supplies. Services provided directly by an agency of the state, federal or local government or their employees when performing service as part of their normal governmental function are purchased through the Purchasing Department; however, competition is not required for such services.

E. Consulting Services

Consulting Services is defined as work or tasks performed by State employees or independent contractors possessing specialized knowledge, experience, expertise and professional qualification to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulation or implementing improvements in programs or services. This definition includes but is not limited to, the organization, planning, directing, control, evaluation and operation of a program, agency or department. Whenever possible, consulting services shall be obtained from other State agencies when the services available from other agencies substantially meet the reasonable specifications of the requesting agency.

If your department requires consulting services, please contact the Director of Materials Management at ext. 1053 for guidance through this process.

F. How to Buy Personal Services Contract (Independent Contractors)

A personal services contract should only be used for services provided by a professional individual on a temporary or occasional basis (i.e. doctors, dentists, attorneys, architects, professional engineers, scientists, or performers of the fine arts). The Purchasing Department reviews personal contractual services contract agreements, which legally bind the University for personal services with an independent contractor.

Examples of Personal Services

- Performances
- Speeches
- Research

G. Personal Service Contract

Personal Services Contracts must be received in the Purchasing Department a minimum of 15 business days prior to the service being rendered. If the personal services contract is for an event requiring ticket sales, the contract should be submitted to the Purchasing Department with as much advance notice as possible. This allows for additional review and approvals without delaying the marketing and payment processes. Additional reviews/approvals are Business and Auxiliary Services (if for an event hosted in Seabrook Auditorium), Business and Finance, General Counsel, etc.

24. ADMINISTRATIVE REVIEW AND APPROVAL OF CONTRACT

A. Unit Review

The individual initiating the contract for the University is responsible for reviewing the contract in its entirety and determining the following:

- If the service or advice cannot be performed within the resources of the University.
- If the contract language accurately reflects the current state of negotiations.
- If the contract meets programmatic and University mission requirements.
- If the estimated cost is reasonable as compared with the likely benefits or results.
- If the contract is in the best interest of the University.
- If the contract is sufficiently clear and consistent.

The individual initiating the contract for the University is responsible for ensuring compliance with the obligations it places on the University, If the contract involves indirectly or directly other unit(s) in the performance of the contract (i.e., financial considerations, telecommunications considerations, space considerations, etc.), the other unit(s) must be consulted and agree to perform as stated in the contract.

B. Vice Chancellor Review

The individual initiating the contract is responsible for obtaining approval of the contract by the Vice Chancellor responsible for the respective division. Such approval is to be endorsed in writing on the first page of the contract. Also, the Vice Chancellor should indicate on the first page of the agreement the budget code from which the contract will be paid.

C. Legal Office Review

After obtaining the Vice Chancellor's approval, the individual initiating the contract must submit the contract to the Office of Legal Affairs for legal review. All University contracts, prior to the execution, shall be approved as to legal form and validity by the General Counsel or the General Counsel's designee. Such approval is to be endorsed in writing on the contract. Such approval and endorsement shall not be required with respect to individual contracts, extensions, or renewals if the form has prior approval by the Office of Legal Affairs as a standard and contains no substantive changes or additions other than those pertaining solely to the description of the project, the amount involved, and the term of the contract or extension.

D. Division of Business and Finance Review

After review by the Legal Office, the contract will be forwarded to the Division of Business and Finance for review by the Purchasing Office. If the contract is approved, it will be signed by the Vice Chancellor for Business and Finance and forwarded to the department which initiated the contract review process.

II. FUNDAMENTAL PURCHASING PRINCIPLES

Ethical Standards

State and University policies prohibit the Purchasing Department from entering into any purchase agreements for personal purchases on behalf of employees. All goods and services purchased remain the property of the University until determined it shall be consumed or disposed of by public sale through Surplus Property procedures. This is regardless of funding source.

Code of Ethics

With increased purchasing flexibility comes increased personal responsibility for ethical behavior, integrity, and good stewardship. Employees involved in Purchasing should adhere to the following:

- Give first consideration to the strategic plan, objectives, and policies of the University.
- Strive to obtain the maximum value for each dollar to expenditure.
- Avoid conflicts of interest.
- Respect each supplier's pricing confidentiality when obtaining quotations.
- Grant all competitive suppliers' equal consideration insofar as state or federal statute and University policy permit.
- Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
- Receive consent or originator or proprietary ideas and designs before using them for competitive purchasing purposes.
- Accord a prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
- Foster fair, ethical, and legal business practice.

NC General Statute 133-32 addresses the legal implications of State employees accepting gifts or favors from vendors. Briefly summarized, this statute states that it is unlawful for any vendor who has a current contract with a governmental agency, has performed under such a contract within the past year, or anticipates bidding on such a contract in the future to give gifts and favors to any employee of a governmental agency who is charged with preparing plans, specifications, or estimates for public contract. It is unlawful for a State employee to willfully receive or accept such gifts or favors. For additional information, see Executive Order No. 24 regarding Gift Bans at <https://files.nc.gov/ncdoa/documents/files/ExecutiveOrder24GiftBan.pdf>.

When competition is received during the bid solicitation phase of an acquisition, certain staff and/or faculty members from the requesting department may be asked to participate in the evaluation process. After requests for quotes/bids have been posted or issued by the Purchasing Department and prior to the award of a purchase order or contract, possession of bid/quote information is limited to University and State evaluating personnel only. Any communication with bidding vendors that may be necessary for the purpose of clarification of a quote or bid must be cleared in advance by the Director of Materials Management.

Avoiding Conflict of Interest in the Procurement of Goods and Services

Conflict of interest relates to situations in which financial or other personal considerations may compromise, may involve the potential for compromising, or may have the appearance of compromising an employee's objectivity in meeting University duties or responsibilities, including research activities. The bias that such conflicts may impart can affect many University duties, including decisions about personnel, the purchase of equipment and other supplies, the collection,

analysis and interpretation of data, the sharing of research results, the choice of research protocols, the use of statistical methods, and the mentoring and judgment of student work.

A University employee may have a conflict of interest when he or she, or any member of that person's immediate family, has a personal interest in an activity that may affect decision making with respect to University teaching, research, or administration. A conflict of interest may be an actual or perceived interest by an FSU employee in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when an employee has a direct or fiduciary interest in another relationship.

A. Conflicts from Related Parties

In order to avoid potential "conflict of interest," the University's policy is that if a University employee has an immediate family member (spouse/partner, mother, father, son, daughter, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law) who is a principal owner of a business, the department in which that family member is employed will not be allowed to do business with that firm

B. Conflicts from Employees

University policy prohibits purchases from University employees or companies in which any University employee has any ownership stake.

III. MAVERICK SPENDING

Maverick or "Rogue" spending is spending that takes place outside or contra the approved University purchasing process (**unauthorized purchases**). It can be intentional, such as when a person refuses to follow the proper procurement process. It can be accidental, due to miscommunication in the supply chain, a poorly structured workflow, or lack of an effective procure-to-pay program. Whatever the case, maverick spending breaches the integrity of the procurement process and can ultimately hurt the University.

Examples of Maverick or "Rogue" Spending

- An end-user providing a vendor with a requisition number in advance of an approved purchase order. Requisition numbers cannot be used in lieu of an approved purchase order. Purchase order numbers are always computer generated.
- A supervisor or manager who gives an employee permission to use personal funds to pay for goods or services.
- Establishing lines of credit or revolving credit accounts in the University's name.
- Any travel related expenditures outside of the approved Chrome River process, or Travel Office approval.
- Negotiating and entering into agreements, contracts, or professional services agreements without Purchasing Department approval.

Damages Caused by Maverick or "Rogue" Spending

- Audit Findings
- Budget Compromises
- Strained or damaged vendor relationships

- Reputational Harm to end-user, vendor, and University
- Workflow Jams
- Violation of NC General Statutes and State Purchasing Guidelines
- Personal and/or organizational responsibility for expenditure or cost of damages because of the expenditure
- Litigation

Only the Purchasing Department is authorized to issue purchase orders and engage vendors for goods and services. Departments must submit a requisition into Bronco eBuy **PRIOR** to receiving goods from suppliers or services rendered. Purchase orders are legally binding agreements with the vendor and the University and only the Purchasing Department has the authority to sign these agreements. Goods and services received and/or rendered without an approved purchase order are considered **UNAUTHORIZED** and become the sole responsibility of the end-user initiating the transaction.

Departments shall not divide orders (split transactions) in attempt to keep them under the \$5,000 small purchase threshold, and thereby avoid the rules requiring the applicable method for competition. Split transactions are a violation of University and State purchasing guidelines.

IV. THE PURCHASING PROCESS

It is important that all requests for goods and services be submitted in a timely manner, and in accordance with the FSU purchasing policy. End-users are responsible for planning ahead and giving themselves enough time for their requests to move through the appropriate departmental, division and purchasing department workflows. Please note the following estimated processing and approval times:

- Estimated approval time for requisitions with a dollar value of \$5,000.00 or less, is 3-5 business days. Requisition must be supported with the proper documentation. Please see the (Guidelines) section of this policy for further details.
- Estimated approval time for requisitions with a dollar value of \$5,000.00 – \$25,000.00 is 5-7 business days. Requisitions in this dollar range require informal bidding (3 quotes) and must be supported with the proper documentation. Please see the (Guidelines) section of this policy for further details.
- Estimated approval time for requisitions with a dollar value of \$25,000.00 - \$100,000.00 is 7-10 business days. Requisitions in this dollar range require formal bidding if it cannot be supported with a waiver of competition justification. The formal bidding process can take up to 45 days to complete. Please see the (Guidelines) section of this policy for further details.
- Requisitions for non-IT related goods and service with a dollar value exceeding \$100,000.00, if purchased with 30% or more general funds or 50% or less contract and grant funds, when a State term contract is not used, will require formal bidding and UNC Systems and State Purchasing and Contracts Office review before the contract can be awarded. The formal bidding and approval process can take 45 to 60 business days to complete. Please see the (Guidelines) section of this policy for further details.

- Requisitions for non-IT related goods and services with a dollar value exceeding \$100,000.00, if purchased with 30% or less general funds or 50% or more contract and grant funds requires formal bidding if not purchased using a State term contract. Neither UNC Systems nor State Purchasing and Contracts Office approval is required. The formal bidding and approval process can take 45 to 60 business days to complete. Please see the (Guidelines) section of this policy for further details.
- Requests for IT related goods and services, regardless of funding source, may require approval from the North Carolina Department of Information Technology or NCDIT. Such requests can take 10 or more business days to complete. **PLEASE NOTE: Cost thresh holds will vary depending on the Statewide IT term contract used.**

V. THE BID PROCESS

Purpose

The following information is provided to help all end-users better understand the responsibilities and sequence of events that must occur with every bid required on non-contract items over \$5,000.

Bid Goal

To obtain goods or services as specified by the department at the most competitive price while complying with NC Purchasing Rules, Regulations, and FSU policies and procedures.

Responsibilities

- A. Requesting Department: To know the specifics of what is required to fulfill your need.
- B. Purchasing Specialist: To oversee the process of obtaining goods and services for a department ensuring that all the State and University policies and procedures are met as required by law.
- C. Bidding Vendor: To provide the goods or services to the department as specified by the bid documentation.

Informal Bid

1. When the total cost for goods or services is \$5,000.00 - \$24,999.00, and it is determined that State term contract cannot be used, end-user is required to obtain 3 quotes. If State term contract can be used, end-user is only required to attach 1 quote. End-users are encouraged to utilize HUB vendors whenever possible. End-users are also encouraged to solicit assistance from the Purchasing Department during this process.
2. End-user will submit an electronic purchase requisition through Bronco EBuy, and ensure all quotes are attached and uploaded with the requisition.
3. Purchasing specialist will conduct a thorough audit of purchase requisition and all supporting documentation for accuracy and consistency in quote specifications. Purchasing specialist will also check State term contract database to confirm if State term contract can or cannot be used. If it is determined State term contract can be used, the appropriate comment will be posted in Bronco EBuy and purchase requisition returned to end-user with instructions to utilize appropriate State term contract vendor.

4. If it is determined State term contract cannot be used, purchasing specialist will approve purchase requisition for subsequent issuance of an approved purchase order.
5. If it is determined 3 quotes cannot be obtained, end-user will complete and submit as a part of the purchase requisitions supporting documentation, a waiver of competition justification. End-user can request a waiver form and instructions from the Purchasing Department.

Formal Bid

1. When the cost of goods or services is \$25,000.00 - \$99,999.99, unless otherwise specified in this policy, a formal bid process is required.
2. End-user, with the assistance of the Purchasing Department, will develop a complete statement of work, along with specific requirements and specifications of the product or services to be performed.
3. The Purchasing Department will advise the end-user of the appropriate bid instrument to use for the formal solicitation i.e., RFP, RFQ, IFB, etc. Complete statement of work, requirements and specifications provided are merged into the appropriate bid instrument.
4. The bid document is posted on the State's IPS site, as well as the HUB bid opportunities site, where it is advertised and made available to the public for 10 days.
5. Potential bidders in receipt of the public solicitation via the State's IPS or HUB site, may be required to attend a site visit or pre-bid meeting.
6. If necessary, the potential bidders submit questions and concerns or provide feedback on the bid requirements.
7. Provide answers to any questions referred to the department by the purchasing specialist on behalf of the bidder. (Departments should not discuss this project directly with any bidder while it is in the bid process.
8. Respond with the answers provided by the department to the potential bidder and, if necessary, issue a bid addendum.
9. Submit a bid that meets or exceeds the bid specifications prior to the date and time on the bid document. There are no exceptions to this requirement.
10. A public bid opening takes place during which the purchasing specialist will read the submitted bids. Bid tabulation is completed to include all vendors' names and bid prices/responses.
11. After the bid opening, the purchasing specialist will retain the original copies of the bids and bidders' names and total bid price will be posted on the State's IPS and HUB site where it is available to the public.
12. Copies of the lowest bids are sent to the department for evaluation.
13. Reviewing of the bids are started with the lowest bidder to determine if the bids submitted have met all the specifications as outline in the bid document. Only specifications included in the bid document can be used to evaluate the bid.
14. An award recommendation is sent to the purchasing specialist by the department based on the lowest bid that meets specifications.
15. Purchasing specialist reviews the department's recommendation.
16. The successful bidder is notified, and results uploaded in the State's IPS system. Contract process begins.
17. End-user submits purchase requisition in Bronco EBuy for an approved Standing Order for Purchase Order.
18. Bidder provides the goods and services.

Any questions about this process, please contact the Director of Materials Management at ext. 1053

VI. THE RECEIVING PROCESS

The University's Central Shipping and Receiving Department (Warehouse) is responsible for the inspection and identification of all materials, supplies, and equipment immediately upon receipt. If any items are missing, damaged, or do not perform to the standards agreed upon, please contact the Warehouse immediately, and enter a comment in Bronco eBuy for the applicable purchase order. Central Receiving will initiate the return process and contact the supplier to retrieve information pertaining to the return such as an RMA Number, credit memo, etc. If all materials, supplies, and equipment are received in satisfactory condition central receiving will complete the receiving documentation/sections in Bronco eBuy. Completing the receiving documentation/sections in Bronco eBuy without physically receiving, inspecting, and identifying all items for satisfaction is a violation of NC purchasing regulations and FSU policy. It is extremely important for FSU's Central Receiving to receive the goods in Bronco eBuy promptly upon delivery.

Also, it is very important that vendors send the invoice directly to Accounts Payable and not to the departments. This will allow Accounts Payable to pay each invoice, promptly. If a department receives an invoice, please send it to the Accounts Payable office, immediately. Please instruct the vendor to send all future invoices to Accounts Payable or to fsuaccountspayable@uncfsu.edu. For more information on receiving goods in Bronco eBuy, please visit <http://www.UNCFSU.edu>, log into you're your Bronco eBuy account, and select [Bronco eBuy \(SciQuest\) Training Videos](#) under useful links.

VII. SCAMS

FSU faculty and staff should be aware of an on-going problem with unauthorized supplier representatives using questionable business tactics to market "special promotions", "limited time offers", etc. for copier toner, office supplies, maintenance items, etc. These telemarketers attempt to scam the University by convincing faculty and staff to order or approve shipments of goods based on the misperception that they are a University approved supplier. These supplies are usually of inferior quality and priced significantly higher than fair market value from University approved suppliers. Some of their questionable business tactics include:

- Phone calls about renewal orders never placed
- Invoices for goods never shipped
- A deadline for special promotion or sales
- Pre-authorization for a future shipment
- Phone calls to send FREE samples of toner
- Bogus email order confirmations
- Fictitious invoices for services or items never requested or received

How to Avoid Scams

Faculty and staff should take the following steps to avoid falling victim to the supplier's scams:

- Watch out for fake "invoices" that do not reference an FSU purchase order number or that were not generated by an official Purchase Card purchase.

- Watch out for telemarketers that call you directly with "limited time offers". Don't order from a supplier calling you!
- Order your supplies from state contract suppliers.
- Never give out your Purchase Card information to unknown suppliers.
- Report any problems directly to your Purchasing Specialist.

What to Do if You Become a Victim of a Scam

1. Receiving calls from individuals claiming to be representatives from toner companies:

- They will usually ask for your copier model and serial # or they may know it and ask you to verify it. Say, "I'm not authorized to accept your products" and hang up or transfer them to the Purchasing Department. ***Never*** give them any information or verify any information.

2. Receiving unsolicited toner, other items, or invoices for services or items never requested:

- If possible, get as much information off the label and refuse the box from the delivery service. Then call the Purchasing Department.
- If you end up signing for the items, **DO NOT OPEN**. Contact the Purchasing Department with as much information as possible (company, address, etc.) and to receive further instruction.
- Forward all documentation to the Purchasing Department

Please communicate these guidelines to your faculty, staff, and student employees. If you have any questions or concerns, please contact the Director of Materials Management.

VIII. SURPLUS PROPERTY

The FSU Surplus Property Office is responsible for tracking and disposing of all property purchased with University funds. What is Surplus Property? Surplus Property/Asset relocation encompasses all university property no longer in use by a university department. University departments should transfer all surplus property and equipment to Surplus Property as soon as determining that the property is no longer needed. Departments may not transfer or sell any state property, except to other university departments. Surplus property may not be discarded, given away, or converted to personal use. Property designated as surplus is available to university departments on a first-come first-served basis.

Preparing Computers for Surplus

This process is initiated by a department contacting the ITS to request an assessment of the unwanted computer equipment. ITS will perform an assessment on the computer, laptop or tablet to determine whether a computer needs to be sent to surplus or if it can be reused or refurbished. Based upon the results of the assessment, ITS will instruct the department on how to complete the appropriate documentation and submit it to ITS. Personal computers, laptops and tablets should not be captured on the same documentation as other surplus items such as furniture, monitors, keyboards, etc.

How Do Departments Designate Property as Surplus Property?

Departments must prepare a Transfer/Surplus of Movable Equipment form to send property and equipment to Surplus Property, regardless of whether the item is equipment or not, or has a fixed

asset tag. Multiple items may be listed on one Movable Equipment form when a group of like items without fixed asset decals is being declared surplus property. For example, if you surplus 40 student desks, use one form for "40 student desks." Upon receipt of the form, Fixed Assets will contact the warehouse for property pick up. For information on how to purchase surplus equipment, please visit here: <https://www.ncstatesurplus.com/ssp-sealedbid/>

For questions or concerns about recycling toner cartridges, please contact ITS.

IX. QUICK LINKS

- [Bronco Printing Solutions](#)
- [Correction Enterprises](#)
- [NC Debarred Vendors](#)
- [NC DOA Executive Orders](#)
- [NC IT Statewide Contracts](#)
- [NCGS 116-13 Powers of Boards regarding property and services subject to general law](#)
- [NC Historically Underutilized Businesses](#)
- [NC Purchase and Contract](#)
- [Policy Initiative Related to UNC's IT-related Purchases](#)
- [UNC Authorized Purchasing Benchmarks](#)
- [UNC and the Division of Purchase and Contract \(P&C\) Memorandum of Understanding](#)
- [UNC and the Division of State Surplus Property – Statement of Operating Principles](#)
- [UNC Quality Assurance Inspection Guidelines](#)
- [UNC Service Contracts – 10 Year Term](#)
- [UNC System Purchasing Authority and Workflow](#)