

MARTIN COMMUNITY COLLEGE

*Purchasing
Procedures
Manual*

Updated March 2023

MISSION STATEMENT

The Community College Purchasing Department represents the college in the purchase of all goods and services at the most favorable prices, terms, and conditions to support the needs of our faculty, staff, and students. To establish and maintain a professional and productive relationship with businesses and to ensure college compliance of regulations set forth by N.C. State government, as related to purchasing. To maintain the highest level of ethics while procuring goods and services with public funds that have been entrusted to the college while always keeping the interest of the college mission first.

The purpose of this manual is to provide MCC employees with the proper policies and procedures necessary for the procurement of all goods and services. Although our best effort has been made to explain these policies and procedures in detail, should you need further clarification, please call the Purchasing Officer, at extension 316.

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DEFINITIONS

AGENT: A person who, by express or implied agreement, is authorized to act for the institution in business dealings with a third party.

AGENCY SPECIFIC TERM CONTRACT: A term contract for use by a specific agency. Depending on the dollar value of the contract, it may be handled by P&C or the agency.

AGREEMENT: (“meeting of the minds”) resulting from an offer and an acceptance.

BEST VALUE PROCUREMENT: The terminology used in G.S. 143-135.9 to identify the method required for purchasing information technology commodities and services.

BUYER: Authorized agent of the institution to buy, purchase or enter into contract with a supplier.

COMMODITIES: Any like group of equipment, materials, or supplies.

COMPETITION: The fair and open solicitation of offers from more than one source; the receipt of offers from more than one qualified source.

CONSULTANT SERVICE: Work or task performed by State employees or independent contractors possessing specialized knowledge, experience, expertise and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or services. This includes, but is not limited to, the organization, planning, directing, control, evaluation and operation of a program, agency, or department.

CONTRACTUAL SERVICE: When an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a State agency for compensation from agency funds. The services may include (by way of illustration, not limitation) services such as, maintenance of buildings or equipment, auditing, film production, employee training and food service, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to Consultant Contracts shall be applicable).

DELEGATIONS:

- General Delegation: The authority granted by the SPO for an agency to handle purchases made under a certain dollar amount, in accordance with the guidelines in this manual.
- Special Delegation: The authority granted by the SPO for an agency to handle a specific or special purchase, where it would serve no practical purpose for the purchase to be handled by P&C.

EMERGENCY: A situation which endangers lives, property, or the continuation of a vital program and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services.

EQUIPMENT: An item that represents an investment of money that can be capitalized. The “stand-alone” item retains its original shape and appearance with use and does not lose its identity through the incorporation into a different or more complex unit or substance.

The State categorizes a piece of equipment as being one single item totaling over \$1000 per item, all in-cost, which includes purchased price, shipping, installation and applicable tax.

MCC separates equipment into 2 categories:

1. Capitalized Asset = over \$5000 for each individual item
2. Non-Capitalized Asset = under \$5000 for each individual item

FORMAL PROJECT: Any project (construction) requiring the estimated expenditure of \$500,000 or more for construction contracts, design fee, and construction contingency, regardless of the source of funds.

HUB (Historically Underutilized Business): Any one of the following: a minority-owned business, a female-owned business, a disabled owned business, a disabled business enterprise, a non-profit workshop for the blind or severely disabled.

INFORMAL PROJECT: Any project (construction), where the authorized funding or the total project cost is realistically estimated at less than \$500,000 for construction contracts, design fee, and construction contingency, regardless of the source of funds.

INFORMATION TECHNOLOGY (IT): Electronic data processing goods and services and telecommunications goods and services, microprocessors, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design or redesign of information technology supporting business processes.

INSTALLMENT PURCHASE: A contract in which the agency's established periodic payments are applied to fulfill the payment obligations for ownership of the commodity. Used when ownership of commodity at time of possession is intended.

INVITATION FOR BID (IFB): The formal advertised written solicitation document used for seeking competition and obtaining offers within the price range of \$10,000 to \$25,000.

INTERACTIVE PURCHASING SYSTEM (IPS): North Carolina Purchase and Contract's Interactive Purchasing System that contains solicitations for many agencies throughout North Carolina.

LEASE: A contract conveying use of a commodity for a designated period of time in return for established periodic payments.

LEASE-PURCHASE: (Conditional Sales Contract) A contract in which the established periodic payments are applied to fulfill the payment obligations for ownership of the commodity.

NEGOTIATION: The act of making a purchase, lease, lease-purchase, or rental agreement, by an authorized agent of the institution under the following conditions:

- When all offers have been rejected,
- When the use of the standard solicitation document is not appropriate,
- Where there is a sole source,
- When an emergency or pressing need arises.

OFFER: The term may refer to a proposal, quote, or bid submitted in response to a Request for Proposal, Request for Quotation, Invitation for Bid, or Negotiation.

OPEN MARKET CONTRACT: A contract for the purchase of a commodity or contractual service not covered by a term contract.

PRESSING NEED: A need arising from unforeseen causes including, but not limited to, delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work, and which can be rectified only by immediate on-the-spot purchase (or rental) of equipment, supplies, materials, printing, or contractual services.

PURCHASE: The act of acquiring a needed item or service by an authorized agent of the institution. An item or contractual service acquired as a result of a valid agreement between an authorized agent of the institution and a seller.

RENTAL: A contract for the right to use a commodity for a period of time, usually with payments made at intervals over the period of use, and normally providing for short notice of cancellation.

REQUEST FOR PROPOSALS (RFP): An informational written procurement document used for seeking competition and obtaining offers for services.

REQUEST FOR QUOTE (RFQ): An informal written procurement document used for seeking offers within the price range of \$5,000 to \$10,000.

SMALL PURCHASE: The purchase of commodities, services or printing, not covered by a term contract, involving an expenditure of public funds of five thousand dollars (\$5,000) or less.

SOLE SOURCE: A sole source vendor is a company or person who sells a product or service that meets the unique needs of the purchaser; generally, **sole source** means the one and only source for the product or service in the United States (minimum). If a manufacturer has dealers or distributors anywhere in the country, it is not a true sole source; having regional, state, or area dealers or distributors do not constitute sole source.

SOLICITATION DOCUMENT: A written Request for Quotation, Request for Proposals, or an Invitation for Bids.

STATEWIDE TERM CONTRACT: A term contract handled by the Division of Purchase and Contract for all agencies and institutions of the state, unless exempted by statute, rule, or special terms and conditions specific to the contract.

MARTIN COMMUNITY COLLEGE PURCHASING

Martin Community College's purchasing program is based on sound competitive purchasing procedures. The importance of seeking competition exists at all levels of expenditure. Fostering competition is an attitude more than a procedure. It is reflected in the way specifications are written, in searching for new sources of supply, in attempting to make procurement documents simple and inviting, and in everyday courteousness shown to prospective suppliers and contractors. Where competition is not sought, or obtained, the reason must be valid and documented.

The college maintains a centralized purchasing system since the implementation of the NC E-Procurement System on July 1, 2005. The college is required by law to follow procedures established by the NC Division of Purchase and Contract. (Copy available in the Business Office and at www.pandc.nc.gov.)

Martin Community College, through the NC Community College System and the NC Division of Purchase and Contract, is charged with jurisdiction and control over the specifications to purchase or contract for equipment, materials, supplies and services under the NC General Statutes.

All purchasing for Martin Community College is processed through the Purchasing Department. The purchasing function is overseen by the Vice President of Administrative Services (CFO).

Price is not the only consideration in seeking competition. Other factors include: terms and conditions, delivery schedules, lead times, types and degrees of service required, inspection and testing procedures, transportation and delivery costs, warranties and guarantees required, etc.

Martin Community College departments may not use Martin Community College funds of any source to purchase retail gift cards/debit cards to distribute to full or part time employees.

IRS regulations consider gift cards/debit cards to be a cash equivalent with a requirement to be added to an employee's W-2 earnings as taxable income. Due to the expense and complexities involved with tracking and monitoring any additions to an employee's W-2, MCC does not allow the purchase and distribution of retail gift cards/debit cards to full or part time employees.

Price is only one factor considered in seeking competition.

ETHICS

All public purchasing personnel shall be entirely cognizant of the necessity of ethical behavior.



Everyone¹ involved in the purchasing process is held accountable to the following principles and standards of purchasing practice:

1. The purchasing power of the State shall not be used for private advantage or gain². Employees or other individuals will not process orders for articles for ownership.
2. Avoid the intent and appearance of unethical or compromising practice in relationships, actions and communications.
3. Refrain from any private business or professional activity that would create a conflict between personal interests and the interests of the institution.
4. Refrain from soliciting or accepting money, loans, credits or prejudicial discounts and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers which might influence, or appear to influence purchasing decisions.
5. Do not discuss with suppliers: cost information, bid information or trade secrets. Handle all information of a confidential or proprietary nature with due care and proper consideration of ethical and legal ramifications and governmental regulations.

Ethical practices are a major concern in the realm of public purchasing. While laws and rules mesh to provide a mechanism for public purchasing, only people can make it work. Impediments to the process must be detected early and safeguards provided at all levels.

¹ "Everyone" involved in the purchasing process applies to every person who engages with a supplier at any level, for any reason. This includes, but is not limited to: requests for products information, inquiries into pricing, design, repairs, replacements, quote information or generating a requisition for purchase.

² "Private advantage or gain" refers to using the association of the State or MCC to receive products, favors, services, or discounts for personal use.

CODE OF ETHICS³

1. Give first consideration to the objectives and policies of my institution.
2. Strive to obtain the maximum value for each dollar of expenditure.
3. Decline personal gifts or gratuities.
4. Grant all competitive suppliers equal consideration insofar as state or federal statute and institutional policy permit.
5. Conduct business with potential and current suppliers in an atmosphere of good faith, devoid of intentional misrepresentation.
6. Demand honesty in sales representation whether offered through the medium of a verbal or written statement, an advertisement, or a sample of the product.
7. Receive consent of originator of proprietary ideas and designs before using them for competitive purchasing purposes.
8. Make every reasonable effort to negotiate an equitable and mutually agreeable settlement of any controversy with a supplier; and/or be willing to submit any major controversies to arbitration or other third party review, insofar as the established policies of my institution permit.
9. Accord a prompt and courteous reception insofar as conditions permit to all who call on legitimate business missions.
10. Cooperate with trade, industrial, and professional associations, and with governmental and private agencies for the purposes of promoting and developing sound business
11. Foster fair, ethical, and legal trade practices.
12. Counsel and cooperate with NAEP members and promote a spirit of unity and a keen interest in professional growth among them.

³ National Association of Educational Procurement

INTEGRITY

Fairness and impartiality in all phases of the process is an essential ingredient in public purchasing. Integrity is manifested through fairness, openness, honesty, objectivity, and impartiality.

Like other service organizations, the purchasing department's justification is the quality of the service it renders. The purchasing process cannot be both effective and self-serving; the two are incompatible. Fairness is required in expending public funds. No matter how strongly a user may prefer a particular product or service to others, equivalent products and services must be given every reasonable consideration.

RESPONSIBILITY

Any Martin Community College contract for the purchase or lease of any commodities, printing or services, contrary to statutes or rules, such contract/purchase shall be void and of no effect. In addition, anyone making such illegal purchases is personally liable for the costs incurred.

Before submitting requisitions to the Purchasing Department, make certain that you have sufficient funds in the line item against which you are charging the expenditure. If there are insufficient funds, a **Budget Revision Request** must be submitted to the Vice President of Administrative Services (CFO) prior to processing the purchase request.

A requisition must be submitted to and approved by the MCC Purchasing Department prior to any goods (supplies, equipment, printing, etc.), or services being charged to the College. This also includes anything that is ordered on an approval basis. When requesting items on approval, be sure to specify on the requisition that it is being ordered "On Approval". If the item is not kept, notify Purchasing by e-mail, so the order can be cancelled, and the funds returned to your departmental budget.

Employees should not purchase items with their own personal funds expecting to be reimbursed by the College. The MCC Purchasing Department has established special procedures for emergency/rush requests that the employee feels need special handling. Check with the MCC Purchasing Department when the need arises. (See section in this manual entitled, **"PROCEDURES FOR EMERGENCY AND RUSH ORDERS"**).

Please be aware also that if there is a State Contract for an item, it must be ordered from the State Contract vendor or provide documentation to MCC Purchasing if Purchasing Flexibility is being used.

Purchasing Flexibility

The 1998 Session of the General Assembly enacted legislation (G.S. 115D-58.14) which allows the community colleges to purchase items that are on a statewide term contract from other (non-certified) sources, if the purchase price, including the cost of delivery, is less than the cost under the Statewide Term Contract. The colleges must comply with the following conditions:

1. The items are the same or substantially similar in quality, service, and performance as items available under State term contract.
2. The purchase price, including the cost of delivery, is lower than the state contract price.

3. The cost of the purchase shall not exceed the bid value benchmark established under G.S. 143-53.1; (The cost of the purchase does not exceed the college's authorized purchasing delegation as established under G.S. 143-53.1.)
4. The college must keep a detailed record of all purchases made from non-certified sources. The record will contain the following:
 - a. A descriptive name of the item purchased;
 - b. The purchase order number;
 - c. The state term contract number for the item purchased;
 - d. The cost of the item on the state term contract;
 - e. The actual cost paid (including the cost of delivery but not the cost of taxes) for the item purchased from the non-certified source;
 - f. Savings per unit;
 - g. Number of units purchased; and,
 - h. Total savings.

The colleges will submit an annual report of these purchases to the Director of Procurement & Auxiliary Services, Procurement & Auxiliary Services Section for the calendar year January 1 through December 31. The report must be received by February 1. The college must maintain a copy of this report and documentation pertaining to these purchases for a period of three years for compliance review by P&C.

Staff of the Procurement Services Section will review these annual reports and make an annual report to P&C

The following items may **NOT to be charged to State funds:**

- Greeting cards or postage to mail them.
- Membership dues for individuals
- Refreshments, (coffee, cream, sugar, stirrers, cups, coffee service, mints (candy), donuts, drinks, etc.)
- Seasonal decorations
- Pictures or wall hangings for the office
- Other room or office decorations, plants/flowers (real or artificial), lamps
- Personal appliances - radios - televisions - coffee makers - microwave
- Alcoholic beverages

DELEGATION

MCC'S Current Delegation Amount is **\$50,000**
For Goods and Services

******No Exceptions due to fund Source******

\$50,001 and greater: (Non-IT, Non State Contract items) purchases must be referred to the Division of Purchase and Contract (Non IT) for an Invitation for Bid or requests for waiver by the MCC Purchasing Department.

\$50,001 and greater: (IT products and service) purchases must be referred to the Statewide IT Procurement Office for an Invitation for Bid or requests for waiver by the MCC Purchasing Department.

\$25,001-\$50,000: (Non-IT and IT, Non-State Contract items) purchases require three written quotes to verify solicitation of competition on the RFQ form. Advertisement is not required.

\$25,000 or less: Telephone or email quotes allowed. A written record of the telephone quote and/or email should be kept in the file.

GOOD PURCHASING PRACTICES MANDATE THAT YOU SEEK COMPETITION FOR ALL PURCHASES.

ORDERS MAY NOT BE SPLIT TO AVOID THE COMPETITIVE BID PROCESS.

NON-IT PURCHASES \$50,001 AND GREATER (INCLUDING SHIPPING AND SET UP, BUT EXCLUDING TAX)

These purchases must be referred to the Division of Purchase and Contract (P&C), Non-IT related items for an Invitation for Bid (IFB) or request for waiver of competition generated by MCC Purchase Department. P&C is authorized by Administrative Rule to inquire into the need for, and the level of quality of the items and services requested.

1. IFB, Invitation for Bid

- When the Division of Purchase and Contract receives the purchase requirements, specifications are reviewed for completeness and accuracy. Minimum IFB cycle time is 45 days. This cycle time, depending on the completeness of specifications or complexity of requirements, could easily be extended 6-8 months.
- After proposals are received complete at P&C, they are forwarded to the MCC Purchasing for review. Depending on the commodity, the MCC Purchasing Department will recommend a supplier for contract award or contact the using department for input.
- Once MCC recommends a supplier for contract award a written request goes before the State Board of Award for approval.

2. Request for Waiver

Depending on the circumstances, a written request for waiver of competition can be submitted for approval. It is imperative that a strong case be drawn before such request is forwarded. The MCC Purchasing Department makes the final decision whether a request for waiver is constituted.

IT PURCHASES \$50,001 AND GREATER (INCLUDING SHIPPING AND SET UP, BUT EXCLUDING TAX)

These purchases must be referred to the Statewide IT Procurement Office (IT), IT-Related Items for an Invitation for Bid or request for waiver of competition generated by MCC Purchase Department.

1. IFB, Invitation for Bid

- When the Statewide IT Procurement Office receives the purchase requirements, specifications are reviewed for completeness and accuracy. Minimum IFB cycle time is 45 days. This cycle time, depending on the completeness of specifications or complexity of requirements, could easily be extended 6-8 months.
- After bids are posted and proposals are received complete at the Statewide IT Procurement Office, they are forwarded to the MCC Purchasing for evaluation review. Depending on the commodity, the MCC Purchasing Department will recommend a supplier for contract award or contact the using department for input.
- Once MCC recommends a supplier for contract award a written request goes before the State Board of Award for approval.

2. Request for Waiver

Depending on the circumstances, a written request for waiver of competition can be submitted for approval. It is imperative that a strong case be drawn before such request is forwarded. The MCC Purchasing Department makes the final decision whether a request for waiver is constituted.

If the initiator deems the purchase to be a sole source, then a memo from the vendor stating their sole source status should be obtained and forwarded to the Purchasing Department. Additionally, “sole source” should be entered in unprinted comments on the EP requisition or send an e-mail and reference the number of the requisition with the information that they are a “sole source”. If the vendor is deemed to be a sole source, then the MCC Purchasing Department will issue an IFB to the vendor for completion. There are NO exceptions due to fund source and the final decision for contract award rests with the MCC Purchasing Department.

Lack of Competition

The purpose of soliciting offers is both to seek and obtain competition; the responsibility is dual. Where only a single offer or a single acceptable offer is received or where reasonable and available competition is not obtained, **the reason shall be ascertained and made a matter of record.**

Waiver of Competition

If an item being requested is available only from a “sole source” or the item being purchased is “brand specific”, justification must be presented to the Purchasing Director in writing for this purchase. The Purchasing Director will present the justification to the Division of Purchase and Contract to ask for a waiver of competition, based on the facts presented. When approval is received from the Board of Awards, the requestor will be notified to prepare an E-Procurement requisition. Vendors of sole source item(s) will be required to sign an IFB. This requires the vendor to agree to the state’s Terms and Conditions. The lead time required for this type of purchase is 60-90 days. No exceptions due to fund source.

Contracted Services:

Generally, terms of service contracts should not exceed a one-year term; however, an exception to this rule occurs where a vendor must make a significant investment in equipment to perform the service. In these cases, a contract term with an initial one-year term, with renewals up to five years may be considered.

EMERGENCY REQUESTS

Only those situations that endanger life or property are considered "emergencies." Such instances are rare and will be handled in an appropriate manner. Contact the Vice President of Administrative Services, Purchasing Department, and/or Maintenance immediately, as appropriate, should such a situation arise.

PRESSING NEED REQUESTS

“Pressing need” requests are defined as those that arise from unforeseen causes, such as breakdown of machinery or equipment. Lack of planning is not an acceptable reason for a “pressing need” request. Such requests will be handled through normal operating procedures.

****Purchase requirements cannot be divided to keep them under the established expenditure delegation amount****

The following procedures for handling “pressing need” requests have been established by the Purchasing Office:

An approved E-Procurement requisition should be forwarded to the Purchasing Office. "Pressing Need" requests will not be honored without a properly submitted requisition. If approvals are required, approvers should be notified immediately to make them aware that a requisition has been created and requires their approval. The Purchasing Office should be contacted to make them aware of the situation. If the exact cost of an item is impossible to ascertain in advance or time does not permit, an estimated cost is to be entered on the requisition. However, reasonable effort should be made to obtain the correct cost, before submitting the request.

All requests not deemed "emergency" or “pressing need" are handled through regular processing procedures. Please do not ask for special handling of your requests as this is unfair to those who have submitted their requests in a timely manner. Except during heavy ordering periods, such as prior to and at the beginning of each semester, the end of the fiscal year, or during computer down times, most routine requisitions are processed on the day they are received.

Returning Products to Supplier

The MCC Purchasing Department must be notified prior to returning or exchanging any merchandise to a supplier within 48 hours of receiving the merchandise. Permission to return must be granted by the supplier. Information required to obtain return authorization includes, but is not limited to:

1. Purchase order number
2. Item number on the purchase order
3. Description of item to be returned
4. Quantity to be returned
5. Reason for return
6. Replacement or refund requested.

End-User Disputes

In order to avoid end-user disputes after receipt of goods or services, the Purchasing Department will work closely with the end-user to be sure that product descriptions, specifications, etc. will meet the needs of the end-user. The Purchasing Department will have the end-user review quotes or bids received to provide input prior to the actual award of the contract.

In the event that the end-user does have a dispute, the end-user will notify the supplier and the Purchasing Department of the problem. The end-user will make every effort to resolve the issue directly with the supplier. In the event that no resolution is reached, the end-user will request the Purchasing Department to become involved. This request must include the purchase order number, the supplier name, contact name, a description of the problem and an outline of what has taken place to date. Purchasing will then take the lead in reaching a resolution that is in the best interest of MCC.

PROTEST PROCEDURES

When an offeror wants to protest a contract awarded by Martin Community College valued at over ten thousand dollars (\$10,000), Martin Community College shall comply with the following:

The offeror shall submit a written request for a protest meeting to the Director of Purchasing at MCC within 30 consecutive calendar days from the date of the contract award. The Director of Purchasing shall furnish a copy of this letter to the SPO within 5 consecutive calendar days of receipt. The offeror's letter shall contain specific reasons and any supporting documentation for why they have a concern with the award. If the letter does not contain this information, or if the Director of Purchasing determines that a meeting would serve no purpose, then the Director of Purchasing may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request. A copy of MCC's letter shall be forwarded to the SPO.

If the protest meeting is granted, the Director of Purchasing shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the Director of Purchasing shall respond to the offeror in writing with the decision.

Martin Community College shall notify the SPO, in writing, of any further administrative or judicial review of the contract award.

North Carolina Department of Administration



Division of Purchase & Contract

North Carolina Procurement Manual: <https://ncadmin.nc.gov/north-carolina-procurement-manual-2022/open>

STATE TERM CONTRACTS

A “term contract” is a contract intended to cover normal requirements for a commodity, printing, or contractual service for a specified period based on predicted usage. These contracts are established by the Division of Purchase and Contract. Martin Community College is required by General Statute 115D-58.5 to purchase all supplies, equipment, and materials by contracts made by or with the approval of the Division of Purchase and Contract of the Department of Administration. Users have several options to view contract items. First they can click on the following link to search by **Alphabetical / Key Word**:
<https://ncadmin.nc.gov/government/purchase-contract-quick-links/statewide-term-contracts>

There are two basic types of term contracts:

- “Statewide term contract” is established by P&C for agency use.
- “Agency specific term contract” is established by P & C for use by an agency when a commodity, printing, or service is not covered by a statewide term contract, and the contract value exceeds the agency’s delegation.

Most of the statewide term contracts for commodities specify a minimum and maximum quantity (or dollars). Orders below the minimum shall be obtained in accordance with agency procurement procedures. Orders that exceed the maximum quantity must be forwarded to P&C for processing. For needs that exceed the maximum, P&C will determine if the order should be placed with the contractor at the contract price, negotiate the price with the contractor, or solicit new offers for the requirement. In all cases, follow the instructions, which will vary by contract or call the P&C purchaser for guidance.

If a waiver, emergency purchase, or pressing need arises, a term contract supplier should be given the opportunity to satisfy the requirement, if the requirement is covered by a term contract and time permits such action.

If the item(s) are not on a state term contract, contact the MCC Purchasing Department to determine the appropriate steps to take.

INSPECTIONS

The Quality Acceptance Representatives' primary function is to perform quality acceptance inspections. They are assigned to designated areas of the State and conduct acceptance inspections as required on a scheduled basis. Their duties include recommending release of payment to contractors following acceptance of the project or item, and re-inspection if necessary whenever a project is not in complete compliance at the time of the acceptance inspection. Inspection by a Quality Acceptance Representative shall be mandatory when the item costs **\$10,000.00** or more. <http://www.pandc.nc.gov/qcinspl.htm>

SPECIAL DELEGATIONS

By special delegation, the SPO may authorize an agency to purchase specific commodities, printing, or contractual services without limitation as to the expenditure. Such delegation is normally confined, but not limited to, items and quantities, or services which by their nature or circumstance, such as perishability, transportation costs, local conditions or local availability, would serve no practical purpose to be handled by P&C.

Some special delegations apply to all agencies, and some are agency specific. All delegations shall be in writing and made a matter of record. For special delegations applying to all agencies, the publishing of them in this manual is the written approval. Unless otherwise specified by the SPO, special delegations are subject to all of the following conditions:

1. All commodities and contractual services covered by term contracts must be purchased in accordance with the instructions of each term contract.
2. Competition must be solicited, where available. If competition is not available, the reason(s) must be documented in the procurement file.
3. Agencies are required to issue their own solicitation documents. This shall also apply to a waiver.
4. The solicitation document shall include terms and conditions and any other consistent contract language, issued by the SPO, unless prior approval from the SPO is granted.
5. All transactions shall be documented.
6. Awarding of contracts under a special delegation shall be the responsibility of the agency's Executive Officer. However, the SPO may require that offers received under such delegations be sent to P&C for determination of the successful contractor.
7. Any controversial matter arising from a special delegation must be brought to the attention of the SPO.
8. Specific delegations may be subject to additional conditions as determined by the SPO. These conditions shall be submitted to the agency in writing.
9. P&C shall periodically review its special delegations to ascertain the availability of these items or services and their continued suitability for delegation.

LIST OF SPECIAL DELEGATIONS

These delegations apply to all agencies; however, competition shall be sought where available.

1. Repairs (Non-Construction): Purchasing authority for repairs handled by private sector personnel, regardless of cost, is delegated to the using agency. Where materials are being purchased for a repair and using agency personnel will perform the needed repair, the purchase of the materials must be handled in accordance with normal purchasing procedures outlined in this manual.
 - a. **NOTE:** Where any structural changes are to be made in or to an agency-owned building, the proposed project should be handled in accordance with construction statutes and rules applicable to each agency. (See G.S. 143-129 concerning building repairs and renovation)
2. Feed: Authority to purchase feed, including special ingredients, is delegated to using agencies which are engaged in the feeding of animals, poultry and fish.
3. Animals, Poultry and Fish: Authority is delegated to purchase animals, poultry and fish.
4. Athletic Apparel: Authority to purchase athletic apparel is delegated to using agencies. In the purchase of athletic apparel, there are certain considerations regarding the safety of the athlete which should remain within the control of the using agency officials.
5. Maintenance of Aircraft: All aircraft maintenance and repair (see Repairs / Non-Construction) whether unexpected or scheduled, is covered by this delegation. This does not include the purchase of equipment, materials, or supplies for the aircraft that is separate and apart from the maintenance or repair being performed.
6. Playground Equipment (Structures): Where the purchase of playground equipment is being handled as a commodity purchase vs. a construction project, the authority to purchase such playground equipment and its installation is delegated to the using agency.
7. Ready-Mix Concrete: Where the purchase of ready-mix concrete is being handled as a commodity purchase vs. a construction project, the authority to purchase such ready-mix concrete is delegated to the using agency.

NCCCS Special Delegations Listing:

<https://www.nccommunitycolleges.edu/finance-operations/purchasing>

NCDIT Statewide IT Procurement:

<https://it.nc.gov/resources/statewide-it-procurement-office>

<https://it.nc.gov/documents/it-procurement-policies-procedures/open>

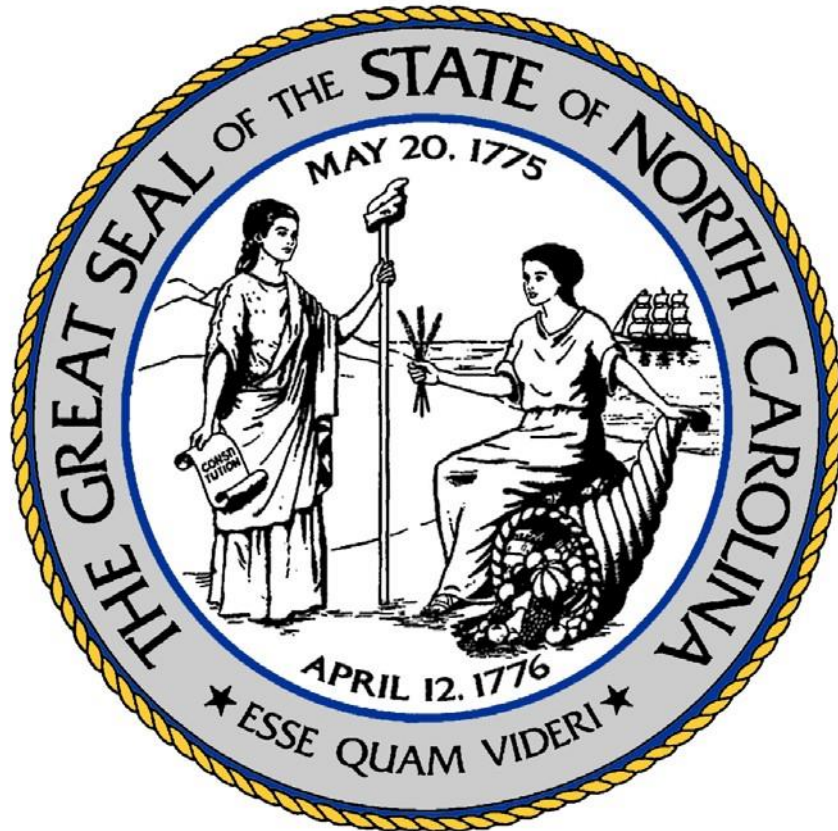
STATE IT CONTRACTS

Like the Division of Purchase and Contract, the Statewide IT Procurement Office has established Statewide IT Contracts to cover normal requirements for an IT related commodity or contractual service for a specified period <https://it.nc.gov/documents/it-procurement-policies-procedures/open> based on predicted usage. Martin Community College is not mandated by law to utilize these contracts, but they should be the first source of supply.

Please refer to the “*Computers and Printers*” section (Page 44) for internal approvals from the Office of Information Technology Services (OITS) prior to ordering computers from the contracts offered by the Statewide IT Procurement Office. These contracts have already been competitively bided. To search for IT related items on contract, log in to:

<https://it.nc.gov/services/statewide-it-contracts>

- Vendors listed on the contract may be contacted for product and pricing information.
- All state contract vendors must be registered for E-Procurement. On the EP requisition, the contract number should be listed under the Line-Item Details section in the Contract field. “Printed Comments” on the EP requisition should read “E-P Order”.
- When a state contract item is being purchased using the VISA P-Card, make certain that you receive the State IT Contract pricing. There should only be an additional charge for shipping if your order falls below the minimum requirement.



***STATUTORY AUTHORITY,
EXECUTIVE ORDER,
&
NC ADMINISTRATIVE CODES***

**STATUTORY AUTHORITY, EXECUTIVE ORDER
& NC ADMINISTRATIVE CODE**

North Carolina General Statute 115D governs the purchasing policies and procedures that the Martin Community College Purchasing Department must adhere to when processing requests for goods and/or services.

G.S. § 115D-58.5. Accounting system.

(a) Each institution shall establish and maintain an accounting system consistent with procedures as prescribed by the Community Colleges System Office and the State Controller, which shows its assets, liabilities, equities, revenues, and expenditures.

(b) Each institution shall be governed in its purchasing of all supplies, equipment, and materials by contracts made by or with the approval of the Purchase and Contract Division of the Department of Administration except as provided in G.S. 115D-58.14. No contract shall be made by any board of trustees for purchases unless provision has been made in the budget of the institution to provide payment thereof. In order to protect the State purchase contracts, it is the duty of the board of trustees and administrative officers of each institution to pay for such purchases promptly in accordance with the contract of purchase. Equipment shall be titled to the State Board of Community Colleges if derived from State or federal funds.

(c) The operations of each institution shall be subject to oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

(d) Repealed by Session Laws 1983, c. 913, s. 18. (1963, c. 448, s. 23; 1979, c. 462, s. 2; c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1; 1981, c. 157, s. 1; 1983, c. 913, s. 18; 1998-68, s. 1; 1999-84, s. 14; 2000-67, s. 7(c).)

PURCHASING FLEXIBILITY

G.S. § 115D-58.14. Purchasing flexibility.

(a) Community colleges may purchase supplies, equipment, and materials from noncertified sources that are available under State term contracts, subject to the following conditions:

- (1) The purchase price, including the cost of delivery, is less than the cost under the State term contract.
- (2) The cost of the purchase shall not exceed the bid value benchmark established under G.S. 143-53.1; and
- (3) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts.

(a1) Notwithstanding the provisions of this section, a community college may purchase, in any lawful manner, an item that is neither available under State term contracts nor substantially similar to an item available under State term contracts.

(b) The State Board of Community Colleges and the Department of Administration shall jointly adopt policies and procedures for monitoring the implementation of this section, including without limitation (i) definitions of substantial similarity, (ii) the content

and frequency of reports and audits of such purchases, and (iii) a process for identifying any term contract existing as of October 1, 2009, with respect to which the exercise of purchasing flexibility could constitute a breach of that contract.

In the formation of each new term contract entered into after October 1, 2009, the Department of Administration shall, in its discretion, either provide in the contract for the purchasing flexibility set out in this section or make the term contract inapplicable to community colleges.

(c) The State Board of Community Colleges, in consultation with the Department of Administration, shall review the purchasing process for community colleges and may increase or decrease the purchasing/delegation benchmark for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports. The State Board may, in its discretion, reduce a community college's purchasing/delegation benchmark at anytime. The State Board shall not increase a community college's purchasing/delegation benchmark by more than fifteen percent (15%) in any calendar year without the concurrence of the Department of Administration within 60 days of submission. The maximum purchasing/delegation benchmark for a community college shall be one hundred thousand dollars (\$100,000). (1998-68, s. 2; 2005-103, s. 5; 2009-132, s. 1.)

DEPARTMENT OF CORRECTIONS

G.S. § 148-134. Preference for Division of Prisons of Department of Adult Correction products. All departments, institutions, and agencies of this State that are supported in whole or in part by the State shall give preference to Correction Enterprises products in purchasing articles, products, and commodities that these departments, institutions, and agencies require and that are manufactured or produced within the State prison system and offered for sale to them by Correction Enterprises. No article or commodity available from Correction Enterprises shall be purchased by any State department, institution, or agency from any other source unless the prison product does not meet the standard specifications and the reasonable requirements of the department, institution, or agency as determined by the Secretary of Administration or the requisition cannot be complied with because of an insufficient supply of the articles or commodities required. The provisions of Article 3 of Chapter 143 of the General Statutes respecting contracting for the purchase of all supplies, materials, and equipment required by the State government or any of its departments, institutions, or agencies under competitive bidding shall not apply to articles or commodities available from Correction Enterprises. The Division of Correction Enterprises of the Department of Adult Correction shall be required to keep the price of such articles or commodities substantially in accord with that paid by governmental agencies for similar articles and commodities of equivalent quality. (2007-280, s. 1; 2011-145, s. 19.1(h), (j); 2017-186, s. 2(ccccccc); 2021-180, s. 19C.9(nnnn).)

HISTORICALLY UNDERUTILIZED BUSINESS PROGRAM

G.S. § 143-48.a State policy; cooperation in promoting the use of small contractors, minority contractors, physically handicapped contractors, and women contractors; purpose; required annual reports.

(a) Policy. – It is the policy of this State to encourage and promote the use of small contractors, minority contractors, physically handicapped contractors, and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small contractors, minority contractors, physically handicapped contractors, and women contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

**Please refer to these lists when selecting vendors for purchases. MCC is required to file quarterly reports with the State showing the total purchases from “HUB” vendors.*

RECYCLED OR RECYCLED CONTENT PRODUCTS



G.S. 130A-309.14

(b) *"The Department of Administration shall require the procurement of reusable, refillable, repairable, more durable, and less toxic supplies and products to the extent that the purchase or use is practicable and cost-effective, as well as require the purchase or use of remanufactured toner cartridges for laser printers to the extent practicable."*

G.S. § 143-58.2. State policy; bid procedures and specifications; identification of products.

(a) It is the policy of this State to encourage and promote the purchase of products with recycled content. All State departments, institutions, agencies, community colleges, and local school administrative units shall, to the extent economically practicable, purchase and use, or require the purchase and use of, products with recycled content.

G.S. 143-58.3 - Purchase of recycled paper and paper products

"In furtherance of the State policy, it is the goal of the State that each department, institution, agency, community college, and local school administrative unit purchase paper and paper products with recycled content according to the following schedule: . . .

- (4) At least fifty percent (50%) by June 30, 1997, and the end of each subsequent fiscal year, of the total amount spent for the purchase of paper and paper products during that fiscal year."

In conjunction with the State policy, it is the policy of MCC to encourage the purchase of products with recycled content whenever feasible. The Purchasing Office will make you aware as new recycled-content items become available on State Contract.

EXECUTIVE ORDER NO.50 (PRICE-MATCHING PREFERENCE):

Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled “Enhanced Purchasing Opportunities for North Carolina Businesses,” a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder’s price is within five percent (5%) or \$10,000, whichever is less, of the nonresident bidder’s price. **If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder’s price.**

Executive Order #50 applies to procurements from the Governor’s Office, Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation), Universities and Community Colleges and all procurements handled by the Division of Purchase and Contract. All other State Agencies are encouraged to implement the requirements of the Executive Order #50 and vendors should contact these State Agencies to determine whether they have adopted and implemented Executive Order #50.

EXECUTIVE ORDER NO.24 GIFT BAN

It is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Office of the Governor and Governor’s Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.”

EXPENDITURE OF FUNDS FROM DIFFERENT SOURCES

01 NCAC 05B .1505

(a) “All public funds irrespective of source, whether special, federal, local, gifts, bequests, receipts, fees or State appropriated, used for the purchase, rental, lease, installment purchase and lease/purchase of commodities, printing and services shall be handled under the provision of Article 3 of G.S. 143 and in accordance with rules adopted pursuant thereto by the Division of Purchase and Contract.”

(b) *“Rules applying to service, rental, lease, and printing contracts do not apply to local school administrative units or community colleges.”*

PURCHASING FROM OR THROUGH AGENCY EMPLOYEES

01 NCAC 05B .1509

“Every reasonable effort shall be made to avoid making purchase from or through employees of any agency. Prior written approval from the SPO is required in any instance which may develop of doing business with such personnel. In deciding whether to grant approval, the SPO shall consider the type item or service needed, the prevailing market conditions, whether competition is available, the cost involved, and the effects of doing business with the employee.”

Martin Community College vendors cannot be an agency employee or immediate family member of an employee, living in the same household. It is considered a conflict of interest for an employee to be a vendor.

If a Martin Community College employee is aware of a violation of this statute, please report it to the Director of Purchasing immediately.

PURCHASING POWER FOR PRIVATE GAIN

01 NCAC 05B .1510

“The purchasing power of the state or the agency shall not be used for private advantage or gain. Purchase under contract made by the state or the agency, except those in accordance with G. S. 143-58.1 shall be not allowed for personal use out of private funds nor shall agencies place orders for articles for ownership by employees or other individuals.”

College employees may not make purchases through the college with the intent of reimbursing the college. State Term Contracts and other agreements are expressly for use by Martin Community College.

REMOVAL OF CERTAIN ITEMS FROM GENERAL CONSTRUCTION

01 NCAC 05B .0701

Every agency shall review the items being included in a construction/renovation project and remove any items that it considers are non-related to the actual construction/renovation of the building. Items that are considered commodities or just furnishings, and that would complete the project for use by the agency, shall be handled in accordance with the rules of this Chapter. Items that are usually removed for construction/renovation projects include carpet, office panel systems, food service equipment, and furniture. If an agency determines that one of these items, or any item that is normally handled as a commodity purchase, is best suited for inclusion in the construction/renovation project, the agency's justification shall be documented in writing for public record.

WAIVER OF COMPETITION

01 NCAC 05B .1401

Under certain conditions, and if deemed to be in the public interest, competition may be waived. To view the list of conditions permitting waiver , but are not limited to, please click on the following link: http://www.pandc.nc.gov/admcode.htm#P817_46714

If a waiver of competition is being requested for one of the reasons above, the justification must be entered in unprinted comments on the requisition or an e-mail may be sent to the Purchasing Department referencing the requisition number. The Purchasing Department reserves the right to seek additional justification for any request for Waiver of Competition.

EXEMPTIONS

01 NCAC 05B .1601

It is not mandatory for the items and services listed in this Rule to be purchased through the Division of Purchase & Contract. To view a list of these items and services, please click on the following link: http://www.pandc.nc.gov/admcode.htm#P1089_71567



CONSTRUCTION

VS

PURCHASING

CONSTRUCTION VS STANDARD PURCHASE DETERMINATION

MCC shall review the items being included in a construction/renovation project and remove any items that they consider are non-related to the actual construction/renovation of the building. Items that are considered commodities, or just furnishings, to complete the project for use, shall be handled in accordance with the normal purchasing rules. Items that are usually removed from construction/renovation projects include carpet, office panel systems, food service equipment, and furniture. If the college determines that one of these items, or any item that is normally handled as a commodity purchase, is best suited for inclusion in the construction/renovation project, their justification shall be documented in writing for public record.

FORMAL PROJECTS

Any project requiring the estimated expenditure of \$500,000 or more for construction contracts, design fee, and construction contingency, **regardless of the source of funds**, will be considered a “**formal**” project and must have the approval of the State Board and the State Construction Office (SCO). More detailed procedures for obtaining approval for formal projects are explained in the section entitled “Procedures for Completing a Capital Improvement Project.” Formal bidding procedures as per G.S. 143-129 must be followed for these projects. Note, in cases of special emergencies involving the health and safety of the people or their property, the bidding procedures in G.S. 143-129 may be waived. Contact the Assistant Director of the Design Review Section at the SCO for approval to proceed under a special emergency situation.

INFORMAL PROJECTS

Any project, where the authorized funding or the total project cost is realistically estimated at less than \$500,000 for construction contracts, design fee, and construction contingency, will be considered an “informal” project. If the economy is in a period where the costs of construction materials and services are rapidly rising, and the estimated total project cost is close to this threshold, the college is strongly encouraged to consider treating the project like a formal project. This rationale is due to the fact that if the project is bid under the informal bidding procedures and the lowest bid or set of bids are over \$500,000 you may not be permitted by the general statutes to award a contract. Several general statutes require that certain actions be taken prior to awarding a contract and some of these actions must have been included in the bid documents for the bidders to consider when compiling their bid(s).

Four examples that are triggered by the \$500,000 threshold are:

1. G.S. 143-129(b) requires that no bid can be considered unless it is accompanied by a bid deposit or bid bond of five percent of the bid.
2. G.S. 44A-26(a) requires performance and payment bonds in the amount of one hundred percent of the bid for all contractors who have contracts over \$50,000.
3. G.S. 143-128.2(j) requires contractors on projects costing over \$500,000 to make specified good faith efforts to recruit minority participation as detailed in G.S. 143-128.2.
4. G.S. 133-1.1(a) (1) requires an architect or engineer registered in North Carolina to prepare the plans for repairs to a building with no structural changes in framing or foundation. If an architect or engineer did not prepare the plans, the college would have to reject the bid or bids.

Any informal project that uses state funding must be submitted to the State Board of Community Colleges (State Board) for approval before the college enters into any design or construction contract. Informal projects **that do not use state funding** do not need to be submitted to the State Board for approval. No informal project has to be submitted to the State Construction Office (SCO) for approval unless the college feels more comfortable with having the oversight of the SCO. If an informal project is submitted to the SCO, the project must also be submitted to the State Board for approval, and both agencies will handle the project as they would a formal project. Informal projects that are not submitted to the SCO may follow either the informal bidding procedures in G.S. 143-131 or the formal bidding procedures in G.S. 143-129. The single prime or separate-prime methods for bidding can be used.

Informal projects must have the proper approval and permits from the local building inspector and must comply with all state and local building codes and regulations. The college or the designer must submit the building plans for all projects over 10,000 gross square feet to the NC Department of Insurance, Engineering and Building Code Division to assure code compliance (See the list of “Contacts and Websites” for the name and address). **Their approval must be secured in order to obtain a building permit from your local building inspector.**

The General Statutes do not address bidding procedures for projects under \$30,000. Theoretically, a college could contact several contractors by phone for projects under this threshold. Each college should develop their own policies and monetary thresholds as to how, when, and where to seek bidders for all informal projects under \$500,000.

To obtain competitive bids, the college must have some form of plans and/or specifications for the project so all bidders are bidding on the exact same materials and components. Depending on the size and type of project, the college may be required by G.S. 133-1.1 to employ a designer. See the section “Beginning any Capital Improvement Project” for more information.

If a college decides to accept informal bids, it is highly recommended that the college secure at least three bids. The General Statute, states that an award can be made “after informal **bids** have been received.” By using the plural form of bid, it implies that more than one bid must be secured. While advertising in a newspaper is not required for informal bids, it may promote local goodwill. The college may consider placing an advertisement on the NC Division of Purchase and Contract’s (P&C) Interactive Purchasing System (IPS) website (See the section Contacts and Websites). If the college makes a genuine effort to solicit bids from three or more contractors and only one contractor submits a bid, an award can be made to the one bidder. The college should keep records of all bids and bidding efforts for three years.

G.S. 143-131(b) **requires** that the college solicit minority participation for its’ informal projects (those from \$30,000 to less than \$500,000). It also requires the college to provide documentation to the Department of Administration, Office for Historically Underutilized Businesses (HUB Office), as to the type and dollar value of the project, contractors solicited, dollar value of minority business participation, and the **good faith efforts made to seek minority contractors.** The college should meet this reporting requirement as they enter their data for this project into the HUBSCO reporting system. The SCO has forms for informal contracts that could be edited and used by the college. The SCO’s design contract, with editing, could also be used as it provides more protection to the college than the American Institute of Architects’ (AIA) contract. In the SCO documents, any reference to the State of North Carolina or the SCO must be removed.