

PROCUREMENT SERVICES POLICY 6 SOLE SOURCE PURCHASES AND WAIVER OF COMPETITION

The University of North Carolina at Greensboro

Approved by Paul Forte, Interim AVC for Finance, August 4, 2021

Revised August 4, 2021

1. Purpose

This policy describes the circumstances under which sole source purchases and waivers of competition are allowed.

2. Scope

This policy applies to all University employees, departments, units and divisions.

3. Definitions and Roles and Responsibilities

3.1 Definitions

Single Source: When an item or Service is available from only one source of supply

Sole Source: A procurement method utilized when procuring goods or services where one or more of the “waiver of competition” defined under North Carolina Administrative Codes 01 NCAC 05B.1401 and 09 NCAC 06B.0901 policies are met.

4. Policy

For some items or services, a sole source justification may exist. Per the state of NC laws and policies, a sole source justification must meet one of the Waiver of Competition conditions as outlined in section 1.3.10 of the state of [NC Purchasing Manual](#) and listed below. To purchase these items or services without competitive bidding, the Sole Source Justification Form must be completed and accompany the [Purchase Requisition](#). If the request is \$500,000.00 or greater in cost, it will be forwarded to the State Purchase and Contract Division for approval. If justified per state of North Carolina laws and policies, the request will be approved by either the Director of Procurement Services or the Assistant Director of Procurement Services and can be purchased without formal bidding. The allowance of a Waiver of Competition is an exception to State statutes and purchasing policies. The final determination as to whether such an exception request is valid will be made by the Procurement Services or the Assistant Director of Procurement Services. Determination will be made based on the State of NC rules and laws. Requirements which exceed the University purchasing benchmark will be forwarded to the [State Division of Purchase and Contract](#) for processing and, if deemed justifiable, will be certified as “sole source” and purchased without recourse to formal solicitation.

Justification for a sole source request cannot be solely based on quality or price; 'quality' can be a subjective evaluation and "pricing" subject to the level of competition.

- "Brand Name" specificity does not necessarily equate to a sole source request. "Brand Name" requirements typically are particular to one manufacturer, but not one supplier. Accordingly, "Brand Name" requirements may not satisfy the criteria of a sole source request as several vendors or contractors may be able to provide the product or service and, therefore, the requirement can be competitively awarded. Procurement specifications, in this instance, will provide for "Brand Name or Equal" specifications, which identify the salient features of the requirement in a non-restrictive manner.
- "Comparable" is defined as equal in those specific areas of specification or performance which must be provided to allow the commodity's use or service to be provided as it is intended or unequivocally required. That is, a product or service may be argued as "comparable" when it meets the key specific levels of function although it does not explicitly meet all specifications. In this context, "comparable" may be acceptable.
- "University Standard" determinations may apply and support a "Sole Source" or a "Single Source" purchase where it can be clearly demonstrated that the University has formally adopted the commodity or service for campus-wide required use and standardization. Such a "standard" is typically published in some form of University document.
- "Performance Specifications" are to be used, whenever feasible, to describe requirements. "Performance Specifications" detail an expected outcome or result rather than the processes required to arrive at the outcome or result and, as such, contribute to competition.

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

Request for Exception

A sole source request must be able to withstand the scrutiny of the test of 'no alternatives.' As such, the submittal of such a request and its documentation represents a good faith certification on behalf of the requesting department as well as the ability to substantiate the request and sustain any inquiries.

The determination as to whether to accept and act upon a sole source request relies on the reasonability of the request and the clear demonstration that the campus department has completed a comprehensive market survey where the investigation, evaluation and

documentation of alternative sources and products or services leaves no doubt as to the course which the University has elected in the purchase. Key to this research is: the use of specifications which only state the salient aspects of the requirement and can provide for the purchase of the minimally acceptable quality necessary to perform a given task or function satisfactorily at the lowest fair and reasonable cost.

A sole source request is not to be submitted when:

- Personal preference for a product, brand or vendor exists.
- Cost, vendor performance and delivery are the justification; these elements are considered in the evaluation for award factors.
- The statement of “no substitution” is the only rationale.
- Lack of planning exists on behalf of the required department.
- The justification is solely based on quality or price, and immediate availability for delivery,
- Offers of trade-in allowances, no cost options or accessories, or special “package” or “deals” are made.

Documentation of Request

Where there is a reasonable basis to conclude that the minimum needs of the University can be met by unique commodities or services, the campus department will submit the [Sole Source Justification Form](#). Attach all copies of correspondence, including any vendor quotations received in the selection of requirements.

When the Sole Source request entails the purchase of a commodity or service from a vendor who has been appointed as the manufacturer’s sole regional representative, the purchase must be documented by the manufacturer’s own signed certification and statement of such fact on its letterhead.

Please note that this process is rare since generally competition is available for most equipment or supplies used at the University.

Waiver of Competition conditions

The State of North Carolina prefers that competition be sought in all purchases. If performance or price competition is not available and it’s deemed to be in the public interest, competitive bidding may be waived.

Per the [State of North Carolina Purchasing Manual \(Section 1.3.10\)](#), Waiver of Competition can be based on the following list of conditions:

Goods and Services

(a) Where a needed product or service is available from only one source of supply; (b) Where emergency action is indicated; (c) Where competition has been solicited but no satisfactory offers received; (d) Where standardization or compatibility is the overriding consideration; (e) Where a donation predicates the source of supply; (f) Where personal or particular professional services are required; (g) Where a particular medical product

or service, or prosthetic appliance is needed; (h) Where a product or service is needed for the blind or severely disabled and there are overriding considerations for its use; (i) Where additional products or services are needed to complete an ongoing job or task; (j) Where products are bought for "across the counter" resale; (k) Where a particular product or service is desired for educational, training, experimental, developmental or research work; (l) Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it; (m) Where items are subject to rapid price fluctuation or immediate acceptance; (n) Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies which thwarts normal competitive procedures; (o) Where the amount of the purchase is too small to justify soliciting competition or where a purchase is being made and a satisfactory price is available from a previous contract; (p) Where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable Nonprofit organization(s); and (q) Where a used item(s) is available on short notice and subject to prior sale.

IT Goods and Services

(a) Where competition is not available; (b) Where a needed product or service is available from only one source of supply; (c) Where emergency action is indicated; (d) Where competition has been solicited but no satisfactory offers received; (e) Where standardization or compatibility is the overriding consideration; (f) Where a donation predicates the source of supply; (g) Where personal or particular professional services are required; (h) Where a product or service is needed for a person with disabilities and there are overriding considerations for its use; (i) Where additional products or services are needed to complete an ongoing job or task; (j) Where a particular product or service is desired for educational, training, experimental, developmental or research work; (k) Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it; (l) Where items are subject to rapid price fluctuation or immediate acceptance; (m) Where there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies that thwarts normal competitive procedures; (n) Where a purchase is being made and a price is available from a previous contract; (o) Where the requirement is for an authorized cooperative project with another governmental unit(s) or a charitable Nonprofit organization(s); (p) Where a used item(s) is available on short notice and subject to prior sale

with another governmental unit(s) or a Although competition may be waived, it is required wherever possible. When a waiver is considered, agencies may negotiate with a potential vendor to acquire the best quality, price, delivery and terms and conditions.

5. Compliance and Enforcement

The Director of Procurement Services is responsible for ensuring compliance with this policy.

6. Additional Information

6.1 Supporting Documents

[NC DOA Purchase and Contract](#)

[North Carolina Administrative Code \(NCAC\) 09 NCAC 06B .0901](#)

[North Carolina Administrative Code \(NCAC\) 01 NCAC 05B .1401](#)

6.2 Approval Authority

This policy will be approved by the Interim Associate Vice Chancellor for Finance.

6.3 Contacts for Additional Information and Reporting

- Responsible Executive: Michael Logan, Director of Procurement Services, (336)334-4104, mflogan@uncg.edu
- Responsible Administrator: Richard Fleming, Assistant Director of Procurement Services, (336)334-3078, rrfleming@uncg.edu