



CONTRACT POLICIES

AND

PROCEDURES MANUAL

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Table of Contents

Section 1: Definitions 3

Section 2: General Process..... 7

Section 3: Professional Service Agreement (PSA)..... 8

Section 4: Professional Service Agreements (PSA) 9

Section 5: Miscellaneous Contracts 10

Section 6: No Cost Extensions..... 10

Section 7: Waivers of Competition..... 11

Section 8: Exemptions 11

Section 1: Definitions

Pitt Community College is not required by law to submit requests to the Division of Purchase and Contract for approval related to printing and/or services.¹

The exemption only applies to seeking approval from the Division of Purchase and Contract. It does not exempt PCC from seeking competition.

This Manual defines types of contractual services and outlines procedures to be followed by PCC employees for procuring these services. The definitions below are intended to provide PCC employees a common vocabulary to use in relation to contracts. These definitions are applicable to PCC; note that other agencies/colleges may use slightly different terminology.

Contract – An agreement between two or more parties that creates an obligation to perform (or not perform) a particular action. It is an agreement enforceable by law. In addition to creating obligations by and to external parties (vendors), a written contract is a record that serves as an internal check and balance permitting reviews of procurement activity for improper relationships, fraud, conflict of interest issues, and regulatory requirements.

A legally enforceable written contract requires:

1. An Offer (specific material/service, specifications and deliverables)
2. An Acceptance
3. Consideration (the value received and given)
4. Execution by competent parties with the authority to bind the company

Contract Formation - Contract formation is a series of pre-award procurement activities between an agency and a contractor that results in a contract. Other terms interchangeable are pre-solicitation and contract development phase. The contract formation activities serve as the preamble to these internal activities that will follow once the contract is executed.

The procurement department offers a value to the contract formation or pre-award process. It is important that they play a hands-on role in the entire contract formation process. During this process, the procurement department can assist in developing specific contract goals and provide the internal customer (end user) with contract formation tools such as specifications, price, delivery types, selection and evaluation criteria, contract templates, forms, and general types of contracts that contain contract clauses designed to effectively minimize and manage contract risks.

Scope of Work, Intent of Contract, Duration, etc – The awarded supplier will receive either a signed contract or a purchase order (or both) from the state entity. The purchase order and/or signed contract will include the terms, conditions and specifications governing the supplier's contract performance. No supplier is authorized to begin contract performance prior to receiving a signed contract or purchase order from the state entity. Any required bonds (payment, performance, fidelity, insurance certification, etc.) or letters of credit must also be promptly submitted to the state entity in accordance with the terms of the contract.

¹ NC Agency Purchasing Manual, June 2008 page 7

The supplier's receipt of a purchase order from PCC for a one-time purchase, a lease or installment purchase, or a fixed quantity contract, authorizes shipment in accordance with its terms. The supplier's receipt of a Notice of Award from PCC establishing a term contract does not authorize any shipment. Shipment against term contracts is only authorized by the supplier's receipt of a purchase order from PCC. The purchase order number or contract number must be shown on all bills of lading, packing slips, back orders, invoices, and other transactional documents. Any shipments made before the issuance/receipt of a purchase order, are made at the supplier's sole risk.

Contract Administrator - The PCC employee who develops the Scope of Work and works with the contractor to ensure that the deliverables are met and the contractor is adhering to the timetable. The Contract Administrator is the point person for the contractor and the Director of Purchasing.

Primary responsibilities of the Contract Administrator include, but are not limited to:

1. Understanding the contract terms and conditions including the scope and performance indicators.
2. Managing any changes to the contract (change orders, amendments, addendums, renewals, extensions, terminations, etc.).
3. Monitoring the contractor's progress and performance to ensure goods and services conform to the contract requirements.
4. Receiving and responding to communications between PCC and the contractor. Coordinating and scheduling meetings, if needed.
5. Participating in resolving disputes in a timely manner.
6. Exercising contractual remedies, as appropriate, when a contractor's performance is deficient.
7. Ensuring contractor's performance evaluation form is completed and filed appropriately. If the value of the contract is greater than \$10,000, then a copy must be submitted to P&C for inclusion in a centralized repository. Monitoring invoice payment reports from accounting for timeliness and accuracy.
8. Documenting all actions taken regarding the contract and maintain such documentation as part of the official contract file.
9. Closing out the contract file.

The Contract Administrator shall avoid the following:

1. Asking the contractor (inappropriately or unknowingly) to perform outside of the scope of work specified in the contract without adequate documents agreed to by both parties.
2. Awarding, agreeing to, modifying, increasing the scope and dollar value of, or signing any contract directing change without adequate documents agreed to by both parties.
3. Issuing instructions to a contractor to start or stop work except in an emergency situation without adequate written documents.
4. Including personal opinions, in any correspondence, including emails.

Examples of things to avoid include, but are not limited to:

1. Making commitments or promises (oral or written) to any contractor.
2. Authorizing delivery or disposition of governmental-furnished property.
3. Obligating PCC beyond the terms and conditions of the contract.
4. Approving items of cost not authorized by the contract.
5. Granting deviations from or waiving any of the terms and conditions of the contract.
6. Changing the period of performance.
7. Authorizing subcontracting or the use of consultants.
8. Authorizing the use of overtime.

Contract Renewal – For the purpose of PCC procedures, a contract renewal is the additional out years of a multi-year contract. In those out years, there is no contract to sign.

Multi-Year Contract – A contract for service that includes an option to renew for additional years beyond the first year.

Professional Service Agreement (PSA) – A type of contract used to procure services provided by a professional individual (person) on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by an evaluator, an educator, or a speaker. A PSA can also be used to procure services provided by a company, an organization, a community college, another State agency, requiring specialized knowledge, experience, expertise, or similar capabilities. The services may include (by way of illustration, not limitation) services such as, presenting a workshop, employee training, or development of promotional materials. If the service is primarily for review or analysis of PCC programs and/or projects, the policies and procedures for Consultant Services shall be applicable. (See definition of “Consultant”)

Consultant – For the purposes of PCC procedures, a consultant is defined as an individual, company, or an employee of another company or State agency who reviews or analyzes PCC programs and provides counsel. This includes, but is not limited to, the organization, planning, directing, evaluation, and operation of the divisions and programs within PCC.

Deliverable – A service which PCC is requesting the contractor to provide.

Foreign National - An individual who is not a citizen of the United States and does not pay income taxes in the U.S. These persons are in the U.S. with visas.

Purchase Order (PO) – A document describing goods or services, quantities and agreed prices for said goods or services the seller will provide to the buyer. Sending a PO to a supplier constitutes a legal offer to buy products or services and encumbers the available funds.

Request for Proposal (RFP) – A formal, written solicitation document used to solicit competition and obtaining offers for services. The value must exceed \$10,000,000 to use an RFP.

Waiver of Competition – P&C has determined that there are instances when colleges/agencies can request not to seek competitive bids for services. If any of the conditions listed in Section 7 “Waiver of Competition” of this manual apply, then a justification must be written citing the condition to waive the bidding process.

Summary of Abbreviations

ABBREVIATIONS	MEANING
CA	Contract Administrator
DP	Director of Purchasing
IPS	Interactive Purchasing System
IT Procurement	Information Technology Procurement(a division within the Governor’s Office)
PCC	Pitt Community College
PO	Purchase Order
PSA	Professional Service Agreement
P&C	Purchase and Contract
RFP	Request for Proposal

Section 2: General Process

I. Obtain preliminary approval from Assistant Vice President/Dean/Vice President.

A PCC employee must receive preliminary approval from his/her Asst. Vice President/Dean/Vice President and certify that funds are available before developing any type of contract. Each division shall develop its own process for seeking approval from within the division and obtaining certification of funds availability.

II. Determine the appropriate vehicle for procuring the service.

A PCC employee must determine the appropriate vehicle for obtaining the desired service.

TEMPORARY EMPLOYEE vs. PROFESSIONAL SERVICE AGREEMENT

TEMPORARY EMPLOYEE	PROFESSIONAL SERVICE AGREEMENT
The work (the means and methods of accomplishing a task) is controlled and directed by a staff member.	Only the result is controlled or directed by a staff member – the contractor works independently.
Agency typically provides place to work.	Individual works off site.
Agency typically provides furniture/equipment.	Individual provides own furniture/equipment.
Agency can discharge individual.	Specific justification for termination is part of the contract and usually requires written notice a minimum of 30 days in advance.
	There are specific deliverables that must be defined and fulfilled to issue payment.
	A service that is required/needed by PCC
	The PCC program staff defines tasks (deliverables) to be performed.
	PCC must follow purchasing policies and procedures.

III. Prepare the contract and obtain necessary approvals.

Where programmatically appropriate, the use of multi-year contracts is encouraged to promote cost savings (Ex.one year plus four additional one year periods). The initial year and each subsequent year of a multi-year contract should end on or before June 30th. One-year contracts should also end on or before June 30th.

The template can be found on the PCC Purchasing Department website, along with the General Terms and Conditions.

<http://www.pittcc.edu/experience-pcc/administrative-departments/purchasing/documents.html>

It is the responsibility of the CA to assure that the contractor is performing the services in an acceptable and timely manner. The CA must also sign off on all invoices. His or her signature denotes that the service for which PCC has been billed is acceptable and in line with the terms of the contract and, therefore, the invoice should be paid.

Contracts cannot be divided to keep them under the delegations set herein in order to avoid the rules requiring competition.

Inquire of the individual if he/she is a foreign national or a retired or current State employee. If so, contact the DP before proceeding with the steps below. If the intended contractor is a foreign national, there is additional information that must be collected for tax purposes. Per G.S. 135-1(20), retirees subject to the North Carolina Teachers & State Employees' Retirement System who retire on or after November 1, 2005, must render no service at any time during the six months immediately following the effective date of retirement. Consequently, the individual cannot enter into any professional service agreement during the six months immediately following the effective date of retirement without jeopardizing his/her retirement benefits. Retired State employees must sign a certification that they have been retired for at least six months.

- IV. Verify the contractor is registered with the NC E-Procurement System. If not, provide them the following link to register. If the contractor has concerns or questions, the CA will need to consult with the DP. **(Registration must be completed prior to the PSA being finalized and signed).**

<http://eprocurement.nc.gov/Vendor.html>

Section 3: Professional Service Agreement (PSA)

When entering into an agreement with a vendor that is neither a community college nor a governmental entity, the amount of the agreement determines which process to follow.

\$4,999 and Less:

- 1) Contact the individual (contractor) in writing and discuss the scope of work along with the terms of the contract. Provide the individual (contractor) a copy of the *General Terms and Conditions* for them to review (they are attached to the Professional Service Agreement Template). If the contractor has concerns or questions regarding the *General Terms and Conditions*, the CA may need to consult with the DP.
- 2) Complete the PSA.
- 3) Print out two copies of the PSA.
- 4) Obtain internal signatures.
- 5) The CA should mail both copies of the PSA to the contractor for signature. Once the contractor has returned both signed copies, the CA will prepare and submit an e-procurement requisition and attach a copy of the signed PSA to the requisition. The CA should keep one copy of the PSA for his/her file. The second signed PSA should be held until the services have been completed and the contractor has submitted an invoice. Then submit both the PSA and invoice to accounts payable for payment.

Over \$5,000– Non IT or IT-Related

- 1) Prepare a Scope of Work for the services and desired results being sought and submit to the DP, along with the desired vendor. The DP will determine whether the competition must be solicited or the agreement qualifies for one of the “Waiver of Competition” provisions (Section 7).
- 2) If the DP determines a waiver can be justified, follow steps 2-5 under “\$4,999 and Less” section.
- 3) If the DP determines that a waiver of competition is not justified, then he/she will notify the CA that an RFP will need to be prepared. An email must be sent to the DP from the Asst. Vice President/Dean/Vice President authorizing the project.
- 4) Once the RFP is prepared, it will be posted electronically to the Interactive Purchasing System (IPS) by the DP. Notification of posting will be submitted to CA. Proposals will be received and opened in Purchasing Department for documentation and record keeping.
- 5) All proposals will be evaluated by the DP, CA and any other selected staff members associated with the Scope of Work. Once all proposals have been thoroughly evaluated and a recommendation of award has been determined, the DP will send the RFP to the appropriate Asst. Vice President/Dean/Vice President for signature. Once the RFP has been signed, the CA will prepare and submit an e-procurement requisition and attach a copy of the signed RFP to the requisition. The RFP will act as the PSA.

Section 4: Professional Service Agreements (PSA)**NC Community Colleges or Other NC Governmental Agencies**

PSA with the North Carolina community colleges, other North Carolina governmental agencies, local governments within North Carolina and Federal agencies, **do not require competition.**

Note: non-profit organizations do not qualify as governmental agencies. The process for this type of PSA is as follows:

- 1) Acquire the scope of work (email will suffice) from the agency/community college.
- 2) Complete steps 2-5 under “\$4,999 and Less” section.

Section 5: Miscellaneous Contracts

Contracts Initiated by Other Entities

On occasion other organizations or companies will send us their contracts, as defined on page 1, for signature. The procedure is as follows:

- 1) A CA is to be identified and preliminary approval must be obtained from the Asst. Vice President/Dean/Vice President.
- 2) Submit the contract electronically (if unavailable, submit hard copy) to the DP for review. The CA will be contacted if any revisions are needed. **If the revisions change the scope of work or timetable, the CA must notify the contractor of the changes.**
- 3) Once revisions have been made, print out two copies of the contract.
- 4) Obtain Signatures.
- 5) The CA should mail both copies of the contract to the contractor (organization or company) for signature. Once the contractor has returned both signed copies, the CA will prepare and submit an e-procurement requisition and attach a copy of the signed PSA to the requisition. The CA should keep one copy of the PSA for his/her file. The second signed PSA should be held until the services have been completed and the contractor has submitted an invoice. Then submit both the PSA and invoice to accounts payable for payment.

Section 6: No Cost Extensions

When a contractor needs to go beyond the end date on their contract for whatever reason, PCC may choose to issue a no-cost extension.

The template can be found on the PCC Purchasing Department website

<http://www.pittcc.edu/experience-pcc/administrative-departments/purchasing/documents.html>

The procedure is as follows:

- 1) Determine the new end date with the contractor.
- 2) Complete the No Cost Contract Extension form and print out two hard copies.
- 3) The signature lines should be the same as on the original contract. The CGA will obtain remaining signatures and mail to the contractor for their signature.
- 4) Once the extension has been signed by both parties, the CA should keep one copy for his/her file.

Section 7: Waivers of Competition

Please use the link below to view the waivers.

<http://ncrules.state.nc.us/ncac/title%2001%20-%20administration/chapter%2005%20-%20purchase%20and%20contract/subchapter%20b/01%20ncac%2005b%20.1401.html>

Section 8: Exemptions

Please use the link below to view the exemptions.

<http://ncrules.state.nc.us/ncac/title%2001%20-%20administration/chapter%2005%20-%20purchase%20and%20contract/subchapter%20b/01%20ncac%2005b%20.1601.html>