



Department of Administration

Vendor Complaint Procedures

Office of Fiscal Management –
Purchasing Section

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Purpose

The primary purpose of this manual is to outline the vendor complaint policies and procedures for contracts managed by the North Carolina Department of Administration. It is intended to serve as a general guide and not to cover every detail or question that may arise during the complaint process. The Fiscal Management Purchasing Section in the Department of Administration should be contacted whenever questions that concern policies or procedures concerning Vendor Complaints cannot be answered by referring to this manual.

References

Fiscal Management Purchasing Section in the Department of Administration reports to the Chief Financial Officer and has the authority and responsibility of obtaining all commodities and services necessary for the operations of the Department of Administration.

It is the policy of the Department of Administration to conduct all business activities relating to the commitment of resources, purchase and payment of commodities and services in accordance with all appropriate laws, rules, regulations and business standards. The source of authority on all procurements processed by Department of Administration are:

- North Carolina General Statutes Section 143 Article 3
- North Carolina Administrative Code: Title 1 Administration, Chapter 05 - Purchase and Contract and Title 9 Information Technology Procurement Rules
- North Carolina Procurement Manual

Each of these sources can be found at the following link: <https://ncadmin.nc.gov/government-agencies/procurement/procurement-rules>

Department of Administration will use consistent and uniform processes to respond to contract complaints and performance that does not meet contractual requirements. Contract requirements supersede all guidelines listed in this procedure manual. There may be complaints and Vendor performance deficiencies that require a response that falls outside of these general guidelines.

Definitions

CONTRACT ADMINISTRATOR: The Division designee who is assigned to manage and monitor an awarded contract

DIT: Department of Information Technology – Strategic Sourcing

DOA: Department of Administration

DIVISION: One of the sub-entities of the Department of Administration where Fiscal Management manages the fiscal responsibilities.

FISCAL MANAGEMENT DIVISION: Division within Department of Administration that manages all of the fiscal responsibilities for divisions within the Department, as well as State Board of Elections, Lieutenant Governor's Office, Department of Military and Veteran Affairs, State Ethics Commission, and Office of State Human Resources.

HUB CERTIFIED FIRM: A minority, woman, or disabled owned firm which has been certified as a disadvantaged business by the North Carolina Office for Historically Underutilized Businesses

P&C: Statewide Purchase and Contract

VENDOR: Supplier, bidder, proposer, company, firm, contractor, corporation, partnership, individual or other entity submitting a response to a North Carolina procurement.

Vendor Responsibility

It shall be the Vendors responsibility to meet or exceed the scope of work/specifications defined in the respective contract including all deliverable deadlines. Vendor shall provide services that produce a passing rating during any inspections outlined in the contract. The Vendor shall correct all complaints and respond to special requests for services within one (1) day of complaints; and both major and minor complaints shall be investigated during the same working day. Any complaint which cannot be corrected during the same working day or which cannot be dealt with for reasons beyond the Vendor's control shall be specifically reported to the Contract Administrator on the same day. The Vendor shall comply with any Formal Vendor Compliant terms and deadlines.

Division Responsibility

It shall be the Division's responsibility to maintain a contract file for every contract administered by the Division. Contract files may be stored in hardcopy form or electronically and should include a copy of the fully executed contract, any renewal agreements or amendments, copies of purchase orders, copies of invoices, documented inspections, documented complaints, any actions to cure, etc. The Division shall assign a Contract Administrator for each contract to maintain the file and manage all aspects of monitoring the performance of the Vendor.

INSPECTIONS

It shall be the Contract Administrator's responsibility to inspect contractual requirements for all contracts that are administered by the Division. Document any and all inspections as either a pass or fail. Contract Administrator shall notify the Vendor via email or hard copy of all inspections with "failing ratings" and the required corrective action timeframe. The Contract Administrator must perform a reinspection of inspections with "failing ratings" and communicate all findings to the Vendor (via email or hardcopy).

COMPLAINTS

It shall be the Contract Administrator's responsibility to document all received complaints concerning all contracts that are administered by the Division. The Contract Administrator shall notify the Vendor (via email or hardcopy) of complaints and special requests for services. This notice is to include a required correct action timeframe. The Contract Administrator must reinspect and communicate all findings to the Vendor (via email or hardcopy).

When warranted per the procedures below, the Contract Administrator may request a Formal Vendor Complaint letter be sent to the Vendor from the DOA-Purchasing Officer. When warranted per the procedures below, the Contract Administrator may request the termination of a contract through DOA-Purchasing Officer.

Purchasing Section Responsibility

Fiscal Management Purchasing Section in the Department of Administration will be responsible for processing all Formal Vendor Complaints and Terminations of contracts. The Purchasing Section shall notify Statewide P&C or DIT of any terminations of contracts over Agency delegation. The Purchasing Section shall notify the HUB Office of any Formal Vendor Complaint issued to a North Carolina certified HUB Firm.

FORMAL VENDOR COMPLAINT

Any Formal Vendor Compliant issued to a Vendor shall outline contract violations and the corresponding contract section where the Vendor is found in default. The Vendor shall be directed to respond to the Formal Vendor Complaint within 10 days, noting any additional information that is relevant, or disagreement with the information provided, and provide a plan of action to correct or otherwise resolve the issue or to ensure it does not reoccur.

If the Vendor fails to respond within the 10-day period, the Department of Administration Purchasing Officer may take administrative action resulting in adverse consequences to the Vendor, including removal from an existing contract, a lower performance evaluation or disqualification of a pending or future bid/proposal, or debarment for up to one year. The Vendor will have 30 days to complete the action plan and remedy complaints before final inspection. The Purchasing Officer may also take administrative action if vendor fails to complete any action plan described in its response.

NOTICE OF TERMINATION

Formal Notices of Termination may be issued to the Vendor for failure to meet the terms of a Formal Vendor Complaint, if the Vendor receives three (3) failing inspection ratings within the most recent six (6) month period, for convenience per the North Carolina Terms and Conditions, or where a Vendor is found in default for cause. Notices of Termination are to include reasoning for termination and final terms of service.

Procedures

INSPECTIONS

The Division shall conduct any and all inspections per the specifications of the contract. The Division shall notify the Vendor of all "failing ratings" per the specifications below:

- A. Provide the vendor a copy of the failed inspection report (via email or hardcopy)
- B. The Contract Administrator will notify the Vendor that all corrective action shall be required within the same working day of notification (via email or hardcopy) Any corrective action that cannot be dealt with for reasons beyond the Vendor's control shall be specifically reported to the Contract Administrator the same day. The Vendor and Contract Administrator, in writing, will mutually agree upon a time for completion of uncorrected complaints.
- C. The Division will inspect to ensure that the corrective action has been completed by the Vendor in the required completion timeframe.
 1. If the corrective action has not been completed in the required timeframe, the Contract Administrator may request that the DOA – Purchasing Officer send the Vendor a Formal Vendor Complaint.
 - a. Failure to follow the Contract Complaint Procedures defined in the contract and identified in the Formal Vendor Complaint could be considered as grounds for default and termination.
 2. The Contract Administrator will send a request to DOA-Purchasing Officer to terminate the contract if the Vendor receives three (3) failing inspection ratings within the most recent six (6) month period.

COMPLAINTS

It shall be the Contract Administrator's responsibility to document all received complaints concerning all contracts that are administered by the Division. The Division shall notify the Vendor of all complaints per the specifications below:

- A. The Contract Administrator will notify the Vendor that all corrective action shall be required within the same working day of notification (via email or hardcopy) Any corrective action that cannot be dealt with for reasons beyond the Vendor's control shall be specifically reported to the Contract Administrator the same day. The Vendor and Contract Administrator, in writing, will mutually agree upon a time for completion of uncorrected complaints.
- B. The Contract Administrator will inspect to ensure that the corrective action has been completed by the Vendor in the required completion timeframe.
 1. If the corrective action has not been completed in the required timeframe, the Contract Administrator may request that the DOA – Purchasing Officer send the Vendor a Formal Vendor Complaint.

- a. Failure to follow the Contract Complaint Procedures defined in the contract and identified in the Formal Vendor Complaint could be considered as grounds for default and termination.
- 2. The Contract Administrator may request that the DOA – Purchasing Officer send an additional Formal Vendor Complaint, without following the notification procedures for the Division, if the same complaint is received a second time within a 30-day timeframe.

TERMINATION

It shall be considered as grounds for default and immediate termination if a Vendor receives five (5) Formal Vendor Complaints over the life of a contract.

It shall be considered as grounds for default and immediate termination if a Vendor receives (3) failing inspection ratings within the most recent six (6) month period.

It shall be considered as grounds for default and immediate termination if a Vendor fails to follow the Contract Complaint Procedures defined in the contract and identified in the Formal Vendor Complaint.

DEBARMENT

Statewide Purchase and Contract is responsible for reviewing and debaring Vendors from receiving further awards with the State of North Carolina per 01 NCAC 05B .1520 DEFAULT PROCEEDINGS; DEBARMENT. DOA-Purchasing will follow the P&C guidelines for requesting debarment for a Vendor that has been terminated from a contract due to cause.

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