

Most Common Discoveries

Compliance Officers of Team RCM



RCM Compliance Officers

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Why Compliance Reviews?

North Carolina Administrative Code Title 1, Chapter 5, Section .1605 requires the Division of Purchase and Contract to conduct compliance reviews on purchasing practices at all agencies.

- Assess adherence to the North Carolina purchasing laws and regulations.
- Determine whether the delegation authority for procurement should be maintained or reduced.



Compliance Review Overview

- Entities understand and adhere to North Carolina General Statute Article 3 of Chapter 143 and North Carolina Administrative Code Title 1 of Chapter 5, Section .1605.
- Determine that Entities' internal policies, procedures, and processes accurately reflect the applicable requirements.
- Exchange ideas of how the State of North Carolina can become more efficient and cost effective.
- Communicate and offer training opportunities.
- Develop a mutually beneficial working relationship between Entities and the Division of Purchase and Contract.
- Transparent and collaborative review process.

What are Discoveries?

A **compliance discovery (formerly known as findings)** is a formal determination in a review process:

- A violation of a rule, policy, statute, or procedure.
- A deficiency in how an agency followed required procurement processes.
- A gap that must be corrected to meet regulatory standards.

Based on NCGS, NCAC, Procurement Manual, Agency Manual



Sources of Authority

Statutory (NCGS)

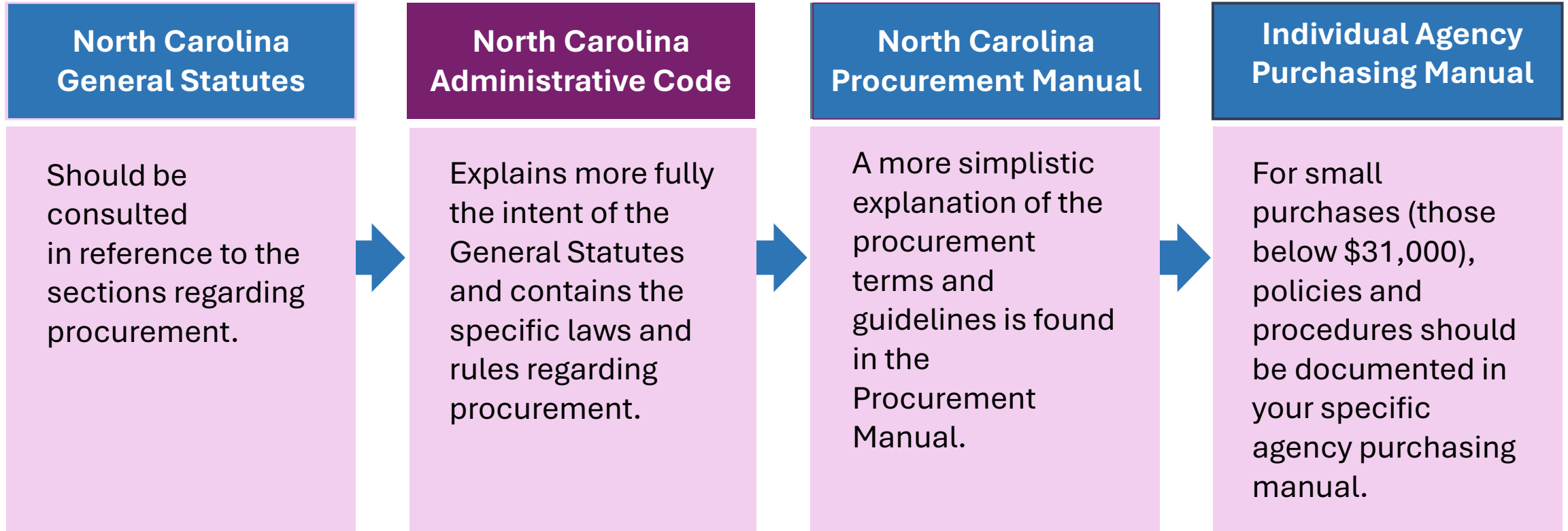
- General Statutes
- GS Chapter 143, Article 3

Administrative Code (NCAC)

- 01 NCAC 05A
- 01 NCAC 05B



Sources of Authority



Regulatory Sources

G.S. Chapter 115, Article
Purchasing Flexibility

Special Delegation
01 NCAC 05B .1603

Exemptions
01 NCAC 05B .1601

Thresholds Defined

Small Purchase

Informal Bidding

Formal Bidding

Small Purchase

- Current threshold is \$31,000
 - Updated every two (2) years (Scheduled for July 2027)
- Agencies will develop written procedures for the administration of Small Purchases
- Agencies should develop initiatives to encourage and promote the use of HUB vendors

Informal Bidding

- Procurements between the Small Purchase benchmark (\$31,000) and the agency's general delegation
- “Three quotes and a buy”
- Utilize P&C templates and Terms and Conditions
 - RFQ or Collaborative Requisitioning (No minimum response time)
 - Sealed bidding using RFP and IFB is still an option
- Agencies will:
 - Develop, issue/post, negotiate, and award solicitations
 - Hear bid protests
- Agencies should develop initiatives to encourage and promote the use of HUB vendors

Formal Bidding

- All purchases that exceed agency's general delegation limit
- Requires competitive, sealed bidding (IFB and RFP)
 - A "Sealed Offer" is one that remains unopened until the public opening time stated in the Solicitation
- Requires P&C review and approval prior to posting (preliminary review) and prior to award

Contracts Over \$1 Million



P&C Legal review is required for all solicitations



P&C Pre-Solicitation Review - before posting



P&C Pre-Award Review - after evaluation and prior to award



Universities - go through own counsel; NCGS 114-8.3(b)

Most Discovery Areas

Not Purchasing from STC (NOTE: Flexibility here)

Direct payments are being utilized instead of issuing PO through the NCeP system

No NCCM Certification

Using State P-Card for unofficial purchases

No Protest Procedure

Not Using State Term Contracts

State Term Contract (STC):

Term contracts are used generally to establish suppliers and prices of a given commodity, group of commodities, printing, or services for a period of time without guaranteed quantities being specified.

- The North Carolina Administrative Code, 01 NCAC 5B.1101(b), requires all State Agencies, Community Colleges and Universities to purchase from available Statewide Term Contracts.
- Not utilizing Statewide Term Contracts impacts business decisions regarding term contract spend; as well as strategic sourcing and leverage buying.
- STCs help agencies utilizing available contracts without having to go through competitive process (taken care by State).
- Most prevalent STC not being used: Office Supplies:4412A, Correction Enterprise:001A, Furniture: 5610A.

Not Using State Term Contracts

Exception Request Form

If the goods and services are available on STC but not suitable for your agency's needs, you may submit the exception request form. Link below:

<https://statics.teams.cdn.office.net/evergreen-assets/safelinks/2/atp-safelinks.html>

NC eProcurement

Statewide Term Contract Management eForms

III. Completing the 'STC Exception Request' Form

Statewide Term Contracts (STCs) are established by P&C for state departments and most State Agencies, as well as higher education institutions. These contracts may also be utilized by non-mandatory State Agencies and other eligible entities, such as local municipalities and schools. In situations where a good or service is needed for a particular application and the agency believes that the needed goods or services are not covered under a STC, the Contract Manager who manages the performance of the STC must be consulted for appropriate action. If a waiver, emergency purchase, or pressing need arises, STC vendors should be given the opportunity to satisfy the requirement, if the needed goods or services are covered by an STC and if time permits such action.

1. After selecting the '**Statewide Term Contract Management eForms**' option, the '**Requester Information**' section will display. Fields with asterisks next to them indicate required fields.
 - a. Complete the four free-text fields indicating the user's contact information.
 - b. Select the '**Entity Type**' from the dropdown field. Click the down arrow to reveal three options: '**State Agency**,' '**Community College**,' or '**University**.'
 - c. After a brief pause, an additional dropdown field will display based on the previous selection. Click the down arrow to reveal the options. Scroll or use the search bar to find and select the user's entity.
 - d. In the '**Form Type**' field, click the down arrow and select '**STC Exception Request**'. Two new sections will display below additional descriptive text:

- '**Exception Request Details**'
- '**Statement of Accountability**'

The screenshot displays the 'Statewide Term Contract Management eForms' interface. At the top right are 'Cancel', 'Save', and 'Submit' buttons. The 'Requester Information' section is highlighted with a dashed oval. It contains the following fields: 'First Name*', 'Last Name*', 'Email Address*', 'Phone Number*', 'Entity Type*' (a dropdown menu currently showing 'Choose one'), and 'Form Type*' (a dropdown menu currently showing 'Choose one'). A yellow callout box with an arrow pointing to the 'Entity Type' dropdown contains the text: 'In the 'Requester Information' section, fill in the contact information fields, select an 'Entity Type' (which will reveal an additional entity field – not displayed here), then click the 'STC Exception Request' option in the 'Form Type' dropdown.'

When Deviating from Procurement Process

Documentation in the procurement file:

- Exception Request form
- Emergency/Pressing Need Purchase Justification
- Purchasing Flexibility Justification
- Waiver from STC vendor if applicable

* Any Justification should be written, dated and signed.

Direct Pay

Compliance Perspective: Why was vendor paid directly without a purchase order being issued?

Definition: In public procurement, a direct payment is a payment made to a vendor or individual without a purchase order. By definition, a direct pay occurs when a vendor is paid directly – without being under contract for a good or service provided.

Allowable Direct Pay Categories

Direct Pay may be used for the following types of transactions:

- **Utilities** (electricity, water, gas, telecommunications)
- **Memberships and subscriptions**
- **Postage and freight**
- **Legal settlements and court fees**
- **Employee reimbursements** (travel, training, etc.)
- **Inter-agency payments**
- **Professional dues**
- **Emergency purchases** (as defined in NCGS § 143-57)

Unallowable Direct Pay Examples

- State Term Contract purchases
- Office Supplies
- Printing Services
- Consulting Services
- Professional Services
- Good and services requiring formal solicitation



Not NCCM Certified

Why get Certified?

- In accordance with NCGS 143-49 15, Certification in the contract management training program is mandatory for all State employees who are responsible for awarding contracts or monitoring contract compliance.
- If registered for NCCM Certification, it should be completed within 18 months (before next compliance review) to avoid a compliance discovery
- To get to the NCCM Training, you will need to go to [the PIP information](#) and request access to [Pathways to NC Procurement Certification](#)



Using State P-Card for unofficial purchases

- **Outside approved categories**
 - e.g., personal items, alcohol, gift cards
- **Exceed spending limits** of \$25,000.00
- **Split purchases** to bypass limits
- **Contracts or services** that require formal procurement processes.
- Lack of **proper documentation**
 - E.g., receipts, business purpose, approvals



Unofficial Purchases with State Funds

Alcoholic Beverages

Purchase of alcohol or related items (“setups”) is strictly prohibited.

Personal Use Items

Any item intended for personal benefit rather than official state business is disallowed.

Refreshments and Snacks

Food, beverages, candy, snacks, and break refreshments for employees or guests are prohibited with exception Ref: OSBM Manual Section 7.3–7.5 Refreshment reimbursement.

Gifts and Favors

Gifts to employees or contractors violate ethics laws (G.S. 133-32).

Unapproved Entertainment Expenses

Entertainment, parties, or social events unrelated to official state business are not allowed.

Donations/Sponsorships

Sponsorships are not recognized as a legitimate procurement category. State funds generally cannot be used simply to “sponsor” an external organization, event, or initiative

No Protest Procedures

01 NCAC 05B .1519 (a)

- **Above Delegation:** P&C
- **Below Delegation:** What is your procedure?

Why Protest Procedures are needed?

- Integrity
- Transparency
- Consistency
- Meaningful remedy
- Reduce risk of litigation



Summary Points

- Spend Wisely
- Engage Vendors Fairly and Competitively
- Supporting the State's mission to serve citizens effectively
- When in doubt...DOCUMENT



Conclusion

Our compliance reviews are a diagnostic tool... The goal is to glean whether you know the right procurement path to travel when procuring goods and/or services for serving North Carolinians effectively.

When your reviews consistently demonstrate that mastery, it builds the case for higher delegation authority.

Compliance Reviews, P&C Training, Strategic Sourcing, Contract Management & OSS ... we are all here to advise and guide while you're on your operational journeys – procuring what the business needs in conducting the business of the state of NC.



PEAK
THANK YOU!

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