



**Business & Finance
Office of Procurement
Waiver of Competition
Request Form**

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| Date: | Department: |
| Requisition #: | Estimated Purchase Amount: |
| Funding Source: | Budget Code: |
| Description of Purchase: | |
| Instructions: This form is to be completed and submitted with your requisition to provide justification for a waiver of competitive bidding for purchases of equipment, supplies, and/or services. Please complete all applicable parts of this form prior to submitting with your requisition in eProcurement. This form and the requested documentation serve to meet State Purchase & Contract (NC P&C) requirements as set forth in 01 NCAC 05B.1401. Additional information and an example of an acceptable justification are at the end of this form. | |

PART I: RATIONALE FOR REQUESTING WAIVER OF COMPETITION

Please check all applicable boxes that explains your reasons for the requested waiver of competitive bidding or for requesting a single/sole source. If "Other" you may use the space provided or attach a memorandum letter of explanation.

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| Sole Source | A sole source justification exists if the goods or service required to satisfy the College's needs are only available from one supplier. Sole source requests must include a letter from the supplier certifying that the item is only available through them. The letter must accompany this form. |
| Emergency | An emergency justification may exist if the goods or services are required to: correct or prevent an emergency health, environmental, or safety hazard; provide for the completion of special or time sensitive events due to unforeseen circumstances; or enable the emergency repair or emergency replacement of existing equipment essential for daily operations. |
| On-going Project | An on-going project justification may exist if items and/or services are needed to complete an on-going project. Part II will need to be detailed that justifies why it would not be feasible to bid out these items and prove that it is in the best interest of the College to waive competition. |
| Compatibility | A standardization/compatibility justification exists if the good or services required to satisfy the College's needs must be the same as or compatible with existing equipment. In order to justify standardization/compatibilities, Part II will need to be detailed to state what is needed and how it is the same or compatible with existing equipment. |
| Desired item for educational, training, or development | A justification to waive competition of an item/service may exist if the desired item is needed for educational, training, experimental, developmental or research work. In order to justify this exemption, Part II will need to be detailed as to why this item/service is the only one that would work in the desired field. |
| Other | Please Explain: |

PART II: JUSTIFICATION FOR WAIVER OF COMPETITION

Please provide complete and essential data to support the recommendation for other than full and open competition. Please put "N/A" for any section that does not apply.

1. What college need does this purchase address.

2. Explain how the selected waiver rationale apply to this product or service and what is unique about this procurement that eliminates the need for competition. Explain why the contractor/vendor is the only company that can meet the requirement. The documentation necessary to adequately substantiate the basis of waiver of competition is:
 - i. If the contractor/vendor has unique capability, whether it is an item or service, it is insufficient to simply say that the supplier is unique. If the item is unique to the supplier, the unique characteristics must be set forth. If the contractor/vendor has unique expertise, that expertise must be described. If the supplier has unique equipment or facilities or it has proprietary data, it must be explained.
 - ii. Sole source letter from vendor and supporting documents must be attached.

3. Describe the item or service and the particular uses of the item/service. State specifically what the item/service is going to be for and what it will do/accomplish. Include here any project numbers and titles that the material/service in question will support or historically has supported.

4. State the distinguishing characteristics of the item and why this is the only item that will fulfill requirements. This may include being an add-on to an existing system or the replacement of an existing system. Copyrights and trademarks may be applicable here depending on the situation.

5. Outline the market research conducted to determine what other similar items are offered from other vendors and why these items will not satisfy the requirements. This may need to be explicit to include company names, contact information, and in some cases, valid quotes.

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6. Additional notes or comments that should be taken into consideration.

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****Please Note****

- Statements that a supplier has the best capability, offers the lowest price, or is the only qualified source are not basis for a waiver of competition. Such determinations can only be made through competitive bidding. A strong presentation which merely establishes that the recommended source is most highly qualified to perform but does not establish why other sources cannot perform is unacceptable.
- Incumbency does not justify a waiver of competition.
- Administrative delay or lack of adequate advanced planning do not create an urgency that justifies a waiver of competition.

PART III: SUPPORTING DOCUMENTATION

Please attach any supporting documentation including market research and sole source letters from vendor.

Supporting Document Attached

Description of supporting document:

PART IV: SIGNATURES

I certify that statements checked, and information provided above, are complete and correct to the best of my knowledge. I understand that the processing of this sole source/waiver of competition justification precludes the use of full and open competition.

Authorizing Department Representative:

Procurement Authorizing Representative:

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|-----------|-----------|
| Signature | Signature |
| Name | Name |
| Position | Position |
| Email | Email |
| Phone | Phone |

ADDITIONAL INFORMATION TO AID IN COMPLETING THIS FORM

When seeking a waiver, this request shall identify those specific facts or circumstances that support a waiver; simply repeating the language of the applicable category is not sufficient. A clear justification should include information around the applicable waiver condition with supporting evidence of why the waiver applies to the specific procurement endeavor, indicate the business purpose of the good/service, who will use the good/service, and effects for not obtaining the specific waiver. A waiver should also be supported by any manufacturer documentation and/or market research. Waiver requests are not needed for purchases below FTCC's small purchase threshold of \$25,000, unless the funding source stipulates competition be sought at a lower threshold. Waiver requests \$50,000 and below are approved by FTCC Executive Director of Procurement & Equipment or the Senior Vice President of Business & Finance. Requests over \$50,000 are submitted to and approved by NC Purchasing & Contract.

Example:

A department requests to purchase Brand X spectrometers from Vendor Y.

Unacceptable justification:

Vendor Y is the only available source of supply for Brand X.

Acceptable justification:

A department performs critical analyses for the presence of minute amounts of certain chemicals, and the instruments used shall be precise and well-calibrated. To give predictable results across samples, the lab has standardized Brand X spectrometers with seven currently in use at its facility. Brand X warrants the accuracy of its equipment only if it is sold and serviced by an authorized dealer. Vendor Y is the only vendor authorized to provide service in North America. Attached is the authorized dealer letter from the manufacturer to support the justification.

Waiver of Competition Conditions

Pursuant to the Administrative Code, FTCC may waive competition where:

- 1) Performance or price competition is not available
- 2) A needed product or service is available from only one source of supply
- 3) Emergency action is indicated
- 4) Competition has been solicited but no satisfactory offers received
- 5) Standardization or compatibility is the overriding consideration
- 6) A donation predicates the source of supply
- 7) Personal or particular professional services are required
- 8) A particular medical product or service, or prosthetic appliance is needed
- 9) A good or service is needed for the blind or severely disabled and there are overriding considerations for its use
- 10) Additional products or services are needed to complete an ongoing job or task
- 11) Products are bought for "over the counter" resale
- 12) A particular product or service is desired for educational, training, experimental, developmental or research work
- 13) Equipment is already installed, connected and in service, and it is determined advantageous to purchase it
- 14) Goods are subject to rapid price fluctuation or immediate acceptance
- 15) 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.
- 16) The amount of the purchase is too small to justify soliciting competition or a purchase is being made and a satisfactory price is available from a previous contract
- 17) The requirement is for an authorized cooperative project with another governmental unit(s) or a charitable non-profit organization(s)
- 18) Used good(s) is available on short notice and subject to prior sale.