


**MEMORANDUM**

TO: Jonathan Pruitt, Senior Vice President for Finance and Budget, UNC General Administration

FROM: Angela Dunaway, Interim State Purchasing Officer 

DATE: September 15, 2016

SUBJECT: Policy Initiative Related to UNC's IT-related Purchases

The purpose of this policy initiative is to provide clarity about the Division of Purchase & Contract's (P&C) role in approving IT-related procurement contract awards, particularly contracts for IT-related purchases in excess of the general UNC benchmark of \$500,000. In both distant and recent past, at various stages in the procurement process for IT goods and services some of UNC's constituent institutions have sought P&C's approval. In many instances, P&C has provided its approval when requested. This memo provides P&C's interpretation of the General Statutes regarding limitations on its authority over UNC's and its constituent institutions' IT-related purchases.

The North Carolina General Statutes set out the responsibilities for state procurements. As a general matter, P&C is responsible for the approval of purchases by UNC constituent institutions in amounts greater than \$500,000, unless a statutory exception applies.<sup>1</sup> G.S. 143-53; G.S. 116-31.10; see also, G.S. 116-13 (providing certain purchasing flexibility to UNC institutions). P&C also must approve various other items at other stages of the procurement process such as, for example, a waiver of competition for a purchase above a university's benchmark or a purchase from a cooperative purchasing organization. However, the North Carolina General Statutes specifically designate the Department of Information Technology (DIT) as the State agency responsible for handling matters involving IT-related purchases: "Notwithstanding any other provision of law, the Department shall procure all information technology goods and services for participating agencies and shall approve information technology procurements for separate agencies." G.S. 143B-1350(a) and (g); G.S. 143B-1322(c)(14)(State CIO has duty to "provide for the procurement of information technology resources"). As a result, P&C has no jurisdiction over IT-related purchases by state departments, universities and agencies.

There are exemptions to requiring the procurement of all information technology goods and

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<sup>1</sup> Even if a non-IT-related purchase is excepted from P&C approval, the applicable purchasing statutes in Chapter 143, Article 3 of the General Statutes must be followed and in most cases the Administrative Code rules, as well.

Mr. Jonathan Pruitt  
September 15, 2016  
Page 2

services to be handled exclusively by DIT, and the University of North Carolina and its constituent institutions are statutorily exempt. G.S. 143B-1320(b). Additionally, we understand that if granted management flexibility by the UNC Board of Governors, the boards of trustees of the constituent institutions are authorized to establish policies and rules governing the purchase of IT-related goods and services, subject to the review of DIT. G.S. 116-40.22(d). Because P&C has no oversight or approval authority over IT purchases, it therefore cannot exercise oversight or approval authority over any IT purchases by the University of North Carolina or its constituent institutions.

Going forward, P&C's policy will be to decline to make approvals related to UNC IT matters, although it will gladly continue to assist any institution with procurement-related matters upon request. P&C understands the UNC Board of Governors has established an approval process for all constituent institution purchases greater than a specified amount, with approval by UNC-GA for purchases above the \$500,000 benchmark. P&C strongly recommends that universities also follow this process for IT purchases greater than this established benchmark.

As a related matter, in order to comply with North Carolina General Assembly reporting requirements, the University of North Carolina and its constituent institutions are responsible, subject to such regulations (if any) as may be established by the University, for notifying P&C's Contract Management section ([P&C.contracts@doa.nc.gov](mailto:P&C.contracts@doa.nc.gov)) of its intent to enter into a contract with a value greater than \$1 million (including options, renewals and extensions). It is important to affirm that this reporting responsibility includes IT contracts. The General Counsel of each institution is responsible for reviewing all proposed contracts with a value greater than \$1 million.

Please let me know if you have any questions or if P&C can be of additional assistance.