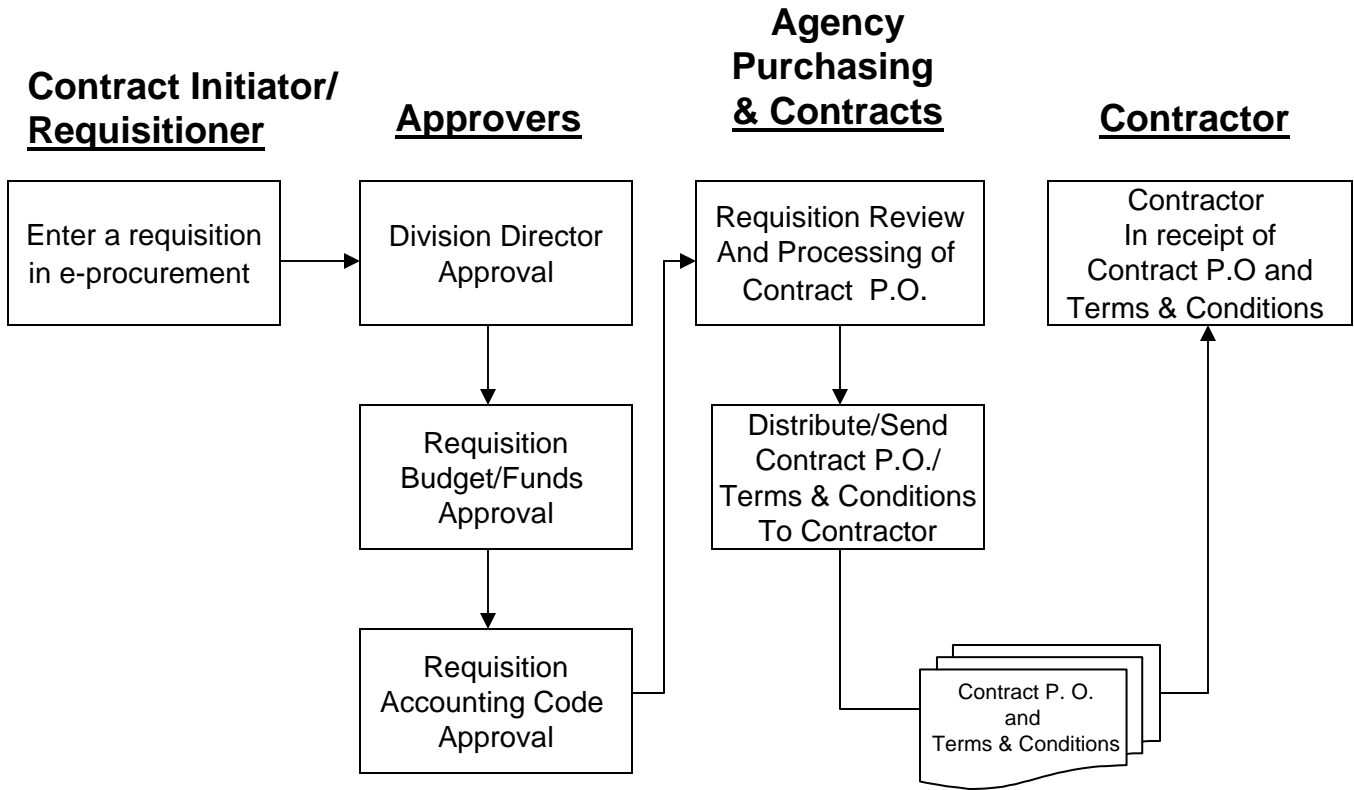


PROCESS FOR CONTRACTS \$5,000 and UNDER

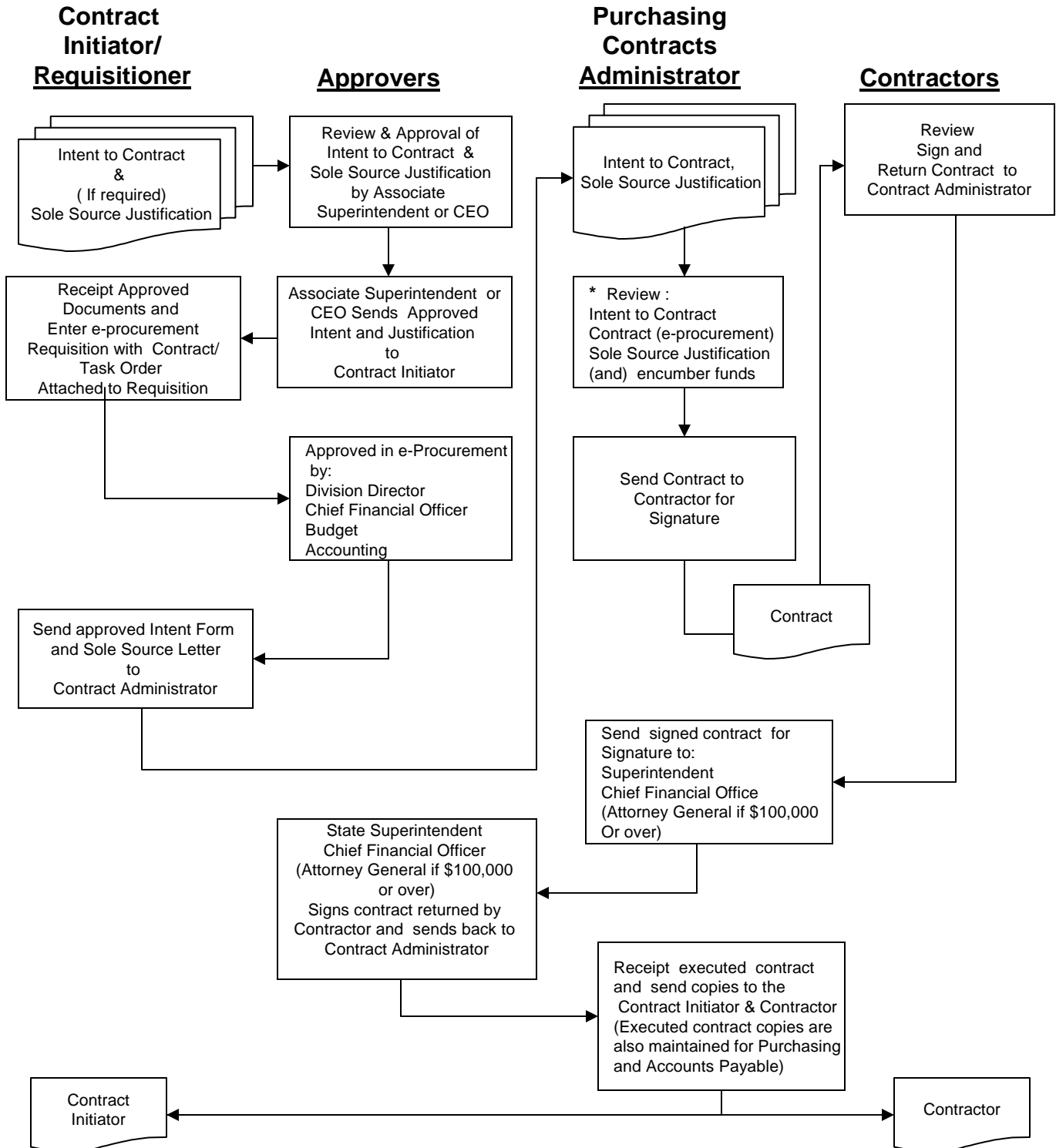


Contract time line for contract encumbrances \$5,000 and under :
Funds should be encumbered ten (10) working days before contract start date.

CONTRACT TERMS AND CONDITIONS

1. **Contract Residency.** It is agreed between the parties hereto that the place of this contract, its situs and forum, will be Wake County, North Carolina, and in said county and state will all matters, whether sounding in contract or tort relating to the validity, construction, interpretation and enforcement of this contract, be determined. North Carolina law will govern the interpretation and construction of this contract.
2. **Project Coordinator.** The Project Coordinator shall be responsible for ensuring Contractor conformance with the terms, conditions, performance specifications as set forth in this contract, and an evaluation of the Contractor's performance. NCSBE has complete discretion in replacing the Project Coordinator with another person of its own choosing.
3. **Right of Termination.** NCSBE may terminate this agreement at any time at its complete discretion by thirty days written notice from NCSBE to the Contractor. In that event, all finished or unfinished documents and other materials shall, at the option of NCSBE, become its property. If the contract is terminated by NCSBE, as provided herein, the Contractor will be paid in an amount which bears the same ratio to the total compensation as does the service actually performed to the total service set forth in this agreement.
4. **Method of Payment.** The Contractor will submit an invoice or invoices according to the payment schedule set forth in this agreement. Invoices should be billed to the Payables Section, North Carolina Department of Public Instruction, but directed to the Project Coordinator, as identified herein, for approval of payment. Payment will be made within fifteen days upon receipt by the Payables Section of a requisition for payment from the Project Coordinator confirming that the Contractor has satisfactorily completed the work required under this contract and evidenced by said invoices.
5. **Contract Funding.** It is understood and agreed between the Contractor and NCSBE that the payment of compensation specified in this agreement, its continuation or any renewal or extension thereof, is dependent upon and subject to the appropriation of funds to, and allocation by, NCSBE for the purpose set forth in this contract. Should such funds not be appropriated or allocated, this contract shall immediately be terminated. NCSBE shall not be liable to Contractor for damages of any kind (general, special or consequential) as a result of such termination.
6. **Contract Transfer.** The Contractor shall not transfer any interest in this agreement without prior written agreement from NCSBE.
7. **Contract Personnel.** The Contractor agrees that it has, or will secure at its own expense, all personnel required to perform the services set forth in this agreement. The Contractor shall not hire, employ or contract with any person currently employed by NCSBE to furnish any material or perform any service on this contract without first assuring compliance with applicable laws of the State of North Carolina and regulations of the State Personnel Commission relating to dual or secondary employment by State employees. In the event the Contractor hires, employs or contracts with any employee of the NCSBE, that fact will be immediately reported in writing, referencing the contract number, to the Purchasing Section, Department of Public Instruction.
8. **Key Personnel.** The Contractor shall not substitute for key personnel assigned to the performance of this contract without prior written approval from the NCSBE Project Coordinator. Key personnel are defined as those individuals named, either by title or by individual name, in the Contractor's offer.
9. **Subcontractor Approval.** None of the work to be performed under this contract by the Contractor or its employees shall be subcontracted without the prior written approval of NCSBE Project Coordinator, unless such arrangement was specified in its offer.
10. **Contract Audit.** The Contractor agrees that NCSBE has the right to audit the records of the Contractor pertaining to this contract both during the period of this contract and for three years after completion hereof. Contractor agrees to maintain all pertinent documents and records relating to this contract for said period of time following completion of the contract period.
11. **Contract Modifications.** This contract may be amended only by written amendments duly executed by and between NCSBE and the Contractor. However, to take advantage of unforeseen opportunities the NCSBE Project Coordinator may make minor modifications that (a) do not change the intent of the contract or the scope of the Contractor's performance; (b) do not increase the Contractor's total compensation or method of payment; and (c) either improve the overall quality of the product or service to the State without increasing the cost, or reduce the total cost of the product or service without reducing the quantity or quality. All such minor modifications to the contract must be recorded in writing and signed by the Contractor, Project Coordinator, and placed on file with the Purchasing Section, NCSBE.
12. **Performance and Default:** If, through any cause, the Contractor shall fail to fulfill in timely and proper manner the obligations under this agreement, NCSBE shall thereupon have the right to terminate this contract by giving written notice to the Contractor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Contractor shall, at the option of NCSBE, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials. Notwithstanding, the Contractor shall not be relieved of liability to NCSBE for damages sustained by NCSBE by virtue of any breach of this agreement, and the NCSBE may withhold any payment due the Contractor for the purpose of setoff until such time as the exact amount of damages due the Agency from such breach can be determined. In case of default by the Contractor, the State may procure the services from other sources and hold the Contractor responsible for any excess cost occasioned thereby. The State reserves the right to require performance bond or other acceptable alternative guarantees from successful offeror without expense to the State. In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor, immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State. Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and debar the Contractor from doing future business with the State. Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
13. **Contractor Bankruptcy.** The filing of a petition of bankruptcy or insolvency by or against the Contractor will terminate this contract.
14. **Ownership of Contract Products.** The Contractor agrees that all products, records and data tapes produced under this contract become the property of NCSBE.
15. **Indemnification, Non-State Agency -** The Contractor agrees to indemnify, save and hold harmless the NC State Board of Education, their officers, employees, successors and assigns, from any and all claims of any nature, including claims for attorney fees and costs, arising out of or relating to the performance of this contract.
16. **Contractor Project Coordinator.** The Contractor must designate one person employed at the executive level, preferably a vice-president or the president, who has the authority to expedite work or make adjustments in scheduling. This person will be contacted by NCSBE Project Coordinator to make such adjustments only in the case of an emergency.
17. **Severability.** No condition in this document shall be construed to limit the enforceability of any other condition herein. In the event any term or condition contained in, or made a part of this document by reference, is negated or vacated for any reason whatsoever all other provisions shall remain fully valid and enforceable.
18. **Liquidated Damages.** Time of delivery is imperative, especially for those critical activities, which are indicated by asterisks (***) in the Request for Proposal, calendar of events. The Contractor agrees that for each and every day beyond the due date that 100% of the work in these critical activities, as specified in this contract, remains uncompleted or of unacceptable quality, the Contractor will pay to NCSBE the amount specified as liquidated damages in this contract. This is in addition to any other remedies available to NCSBE by law. Should the Contractor see that it will be unable to meet a delivery date, it may request, in writing to NCSBE Project Coordinator, an extension period. This request may or may not be granted at the discretion of NCSBE. If written approval for extension is granted, liquidated damages will not be assessed. If NCSBE fails to meet a delivery date without written approval from the Contractor, liquidated damages will not be assessed. NCSBE reserves the right to delay the schedule due dates.
19. **Employment Taxes.** The contractor agrees to make all employment tax payments to the federal and state governments on the full contract amount as required by law. THE CONTRACTOR FURTHER AGREES to reimburse the NC State Board of Education or its employees for any penalty due to the contractor's failure to make such payments.
20. **Family Educational Rights & Privacy Act:** Student educational records are subject to 20 U.S.C. 1232g, Family Rights and Privacy Act (FERPA) and are not disclosable except in very limited circumstances. The contractor will ensure that every employee responsible for carrying out the terms of this contract is aware of the confidentiality requirements of federal law. In addition, every such employee must sign a confidentiality acknowledgement that indicates that he or she understands the legal requirements for confidentiality. The contractor is responsible for the actions of its employee and must take all precautions necessary to ensure that no violations occur. Finally, access to personally identifiable student education information will be limited to those employees who must have access to it in order to perform their responsibilities pursuant to this contract.
21. **Certification:** By executing this contract, the signer certifies that these services are submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.
22. **Outsourcing:** Any vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided. If, after award of a contract, the contractor wishes to outsource any portion of the work to a location outside the United States, prior written approval must be obtained from the NCSBE responsible for the contract. Vendor must give notice to the NCSBE of any relocation of the vendor, employees of the vendor, subcontractors of the vendor, or other persons performing services under a state contract outside of the United States.

PROCESS FOR CONTRACTS OVER \$5,000



*Information and Technology (IT) contracts in excess of \$25,000 also require review and approval by State Information and Technology Services. Service contracts in excess of \$10,000 also require review and approval from State Purchase and Contract.

Contract time lines for contract encumbrances over \$5,000:

More than \$5,000 but \$10,000 or less – Six (6) to eight (8) weeks before contract start date.
 More than \$10,000 - Ten (10) weeks before contract start date.

(Date)

Memorandum

To: (Insert Associate Superintendent's Name)

From: (Insert Director's Name)

Subject: Intent to Contract
Requisition No. PR _____
Contract No. EP _____
(Required for Service Contracts Greater Than \$5,000)

1. Please complete the following information (If you will use competitive bidding, please insert a short name for the RFP or other bid instrument in the place for Contractor Name; for example: RFP for Parking Services, and do not complete the contract amount or contract dates.)

Contractor Name:
Contractor E-mail Address:
Contract Amount (if this request amends the amount, please enter the amended amount):
Contract Dates:
DPI Project Coordinator and Telephone Number:

2. Is this a contract amendment? If so, please explain fully why you are amending it.
(Note: If the amendment is for a date extension only, do not answer questions #3 through #12)
3. Why are you initiating a contract?
4. What services will you require?
5. How does the contract add value to the teaching/learning process?
6. Is the service unique and not repetitive with agency activity or other contracts? Please state why this service cannot be performed within the resources of the agency.
7. What is the impact, if you do not contract for these services?
8. If this contract is being paid with grant money, does the grant require the contracted services? Please describe the grant references to these contracted services, and give a synopsis of the grant.

9. Will you use competitive bidding (e.g., RFP?) If yes, skip the remaining questions # 9 through # 12.
10. Are you using an IT Supplemental Staffing Convenience Contract or other type of convenience contract? If yes, please skip question # 10 and complete questions # 11 and # 12.
11. Do you plan to request sole sourcing for this contract? If yes, please complete and attach the required sole source justification memorandum. Sole sourcing is warranted whenever only one acceptable source can be found; sole sourcing should never be the first consideration. (**Important:** The approval of the DPI Section Chief for Purchasing and Contracts, and approval by the Division of Purchasing and Contracts or ITS Procurement Services is required for sole sourced contracts.)
12. Have you contracted with this vendor previously for related services? If yes, please list all contracts with this vendor during the last twelve months.
13. How did you calculate the cost (e.g., what is the cost per hour and number of hours?) If the cost per hour is above the DPI maximum for that type of service per the New Service Contract Policies, please attach the required written permission granted by the Deputy Superintendent.
14. Is this contract for information technology services? Has this IT Project been entered into the Project Portfolio Management system (PPM Tool)? If so, has this IT Project been approved by the Enterprise Project Management office (EPMO)?

Approved:	Yes _____	No _____
Signed:	_____	Date: _____
	Associate/Assistant State Superintendent	

(Date)

Memorandum

To: Purchasing and Contracts Section Chief

From: (Insert Director's Name)

Subject: Sole Source Justification

1. Please complete the following information:

Contractor Name:

Contract Amount:

Contract Dates:

DPI Contract Contact Person and Telephone Number:

2. Please provide a detailed justification for sole sourcing this contract by answering the following questions.

- a. What is unique to my project or situation?
- b. What is unique about the services provided by this company or individual?
- c. Where else have I searched for competition? (This question is very important.)
- d. Can State Purchase and Contracts verify the research (i.e., can they confirm your facts) I will supply with my justification?
- e. Have copies of any laws, bills, or other General Assembly directives that support sole-sourcing been referenced and attached?
- f. Why did I conclude that this is the only acceptable source?
- g. State that this is the only source with the qualifications to perform these services. (This statement is required.)

Approved:	Yes _____	No _____
Signed:	_____	Date: _____
	Purchasing and Contracts Section Chief	

This agreement, made and entered into this ___ day of _____, 20___, between the North Carolina State Board of Education, Raleigh, North Carolina, hereinafter referred to as "NCSBE", and _____ (name of contractor), located at _____ (address), Attention: _____ (need contact persons name if contract is NOT with an individual), hereinafter referred to as the "Contractor".

WITNESSETH

For and in consideration of the mutual promises to each other, hereinafter set forth, the parties mutually agree as follows:

- A. The Contractor hereby agrees to provide professional services as follows:
- B. The NCSBE hereby agrees:
 - 1. To pay the Contractor the sum of \$___ (if with individual, need to know cost per hour and hours working), said sum to be full and complete payment for services to be rendered under this contract. **NOTE:** NCSBE is required to withhold 4% taxes from personal services income paid to nonresident contractors per G.S. 105-163.3.
 - 2. To make progress payments as follows:
 - 3. To designate _____ (name), _____ (telephone #), as the NCSBE "Project Coordinator" for this contract.
- C. The dates and terms of this contract between NCSBE and the Contractor will be for the period of _____, through _____.
- D. If any of the services rendered under this contract are to be paid with federal funds, the contractor hereby certifies that the organization and its principals are not suspended or debarred from doing business with the federal government.
- E. The Contractor and NCSBE hereby agree to all the Terms and Conditions stated on the reverse side of this contract and, if additional pages are attached as an addendum to this document, all terms and conditions listed herein.

IN WITNESS THEREOF, NCSBE and Contractor have executed this agreement on the day and year herein above first written.

ATTEST:

FOR THE NORTH CAROLINA STATE BOARD OF EDUCATION:

Chairman and Chief Executive Officer	Date
State Superintendent	Date
Contractor's Signature	Date
_____ (As to Form)	Date
Attorney General's Signature (if contract amount \$100,000 and over)	Date

Budget Code:
Budget Source:
Strategic Priority:

TASK ORDER
Issued Under the North Carolina State Board of Education, University of North Carolina
Master Agreement, Version 001

Project Personnel

UNC Institution

Principal Investigator

University
Name, Title
Address
City, State, Zip
Phone, fax
Email

NCSBE

Project Coordinator

North Carolina Department of Public Instruction
Name, Title
Address
City, State, Zip
Phone, fax
Email

Contract Administrator

University
Name, Title
Address
City, state, zip
Phone, fax
Email

Contract Administrator

North Carolina Department of Public Instruction
Name, Title: Charlott Ellington, Contracts Administrator
Address: 6308 Mail Service Center
City, State, Zip: Raleigh NC 27699-6308
Phone, fax: W/919-807-3663; Fx/919-807-3660
Email: cellingt@dpi.state.nc.us

Project Description

Project Title:

Project Contact for University:

Project Start/End Dates: _____ through _____

Incorporation

The Terms and Conditions of the NCSBE/UNC Master Agreement are incorporated by reference. This Task Order also includes any Appendices or addendums attached hereto, including Appendix A "Recipient Scope of Work," Appendix B "the Funding Source Award Notice" (if applicable), Appendix C "Special terms and conditions" (if applicable), and Appendix D "Detailed Budget – including allowable Facilities and Administrative Cost recovery."

IN WITNESS THEREOF, the parties have caused the Task Order to be executed by their authorized representatives.

ATTEST:

FOR THE NORTH CAROLINA STATE BOARD OF EDUCATION:

Chairman and Chief Executive Officer

Date

State Superintendent

Date

UNC INSTITUTION:

Authorizing Official Signature

Date

Attorney General's Signature (if Task Order amount \$100,000 and over)

Date

Funding Information

Total Project Costs:
Total funding to date:
Cost share required with this action:
Cost share to date:

Funding Source:
Agency #:
CFDA#:
Title:

Recipient Fiscal Agent

Name, Title
Address
City, state, zip
Phone, fax
Email

Special Terms and Conditions

☞ Special Terms and Conditions Continued in Appendix C

Invoicing

Cost reimbursement under this Task Order will require periodic invoices submitted no more frequently than monthly and a final invoice submitted within 30 days of the project end date listed on page 1. All invoices are subject to the approval of the "NCSBE Project Coordinator." Invoices are to be *addressed* to NCDPI, Accounts Payable, 6331 Mail Services Center, Raleigh, NC 27699-6331, but *mailed* to the Project Coordinator listed on page 1 of this Task Order.

Amendment Description

Describe the reason for amending this Task Order:

Budget Code:
Budget Source:
Strategic Priority:

Contracts Processed for FY 2008-09 As of February 2009

Contracts Over \$5,000

Type Contract	No. of Contracts	Amount	% State Funded	% Federal Funded	% Receipts Funded
Service *	200	\$37,689,355	35%	61%	4%
Personal Service Contracts***	40	\$853,471	57%	39%	4%
Personal Service Agreements ****	35	\$4,757,769	46%	52%	2%
TOTALS	275	\$43,300,595	36%	59%	5%

Contracts \$5000 and Under

P. O. Contracts	982	\$1,519,265	16%	46%	38%
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Withholding Contracts

Withholding Contracts**	53	\$1,398,243	45%	51%	4%
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* **Service Contract:** Contract for services with a local school system, organization, business, or private school or university (i.e., developing and implementing training for school personnel; evaluating the effectiveness or programs).

** **Withholding Contract:** Contract for an individual who is working for the Department under any or all the following conditions:

- (1) the person is working on site;
- (2) the person is being supervised by a Department employee; and
- (3) the person is doing work by a position that has been left vacant. If the contract services being provided meet any or all of these conditions, it is a Withholding Contract.

*** **Personal Service Contract:** Contract in which services are provided by a professional individual (person) on a temporary or occasional basis, including (by way of illustration, not limitation) those provided by a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts and similar professions. NOTE: Per the State Purchasing Manual established by the Department of Administration, Division of Purchase & Contract, Section IV-4, these services are exempt from being processed through that Division. The exemption applies only if the individual is using his/her professional skills to perform a professional task. If the contract is over \$5,000 a sole source letter is required.

**** **Personal Service Agreement:** Contract in which a person is hired by a school/university/company to provide specific services for the Department. The Department pays for their salary and benefits.

Unpaid Contracts as of February 2009

(Excluding Withholding Contracts)

Fund Type	Number of Unpaid Contracts	Amount of Unpaid Contracts	% Amount to Total Unpaid Contracts
State Funds	160	\$9,189,342	30%
Federal Funds	325	\$20,874,919	67%
Receipts	157	\$ 1,042,561	3%
Totals	642	\$31,106,822	