



## Procurement Actions to Support Executive Order 143

### General Guidance and Anticipated Questions

---

On June 4, 2020, Governor Cooper signed Executive Order 143 (EO 143) to address the disproportionate impact of COVID-19 on minority communities and established the North Carolina Pandemic Recovery Office (NCPRO) to ensure equitable delivery of COVID-19 related stimulus and resources.

Public procurement's award decisions have significant impact on the State's economy. As public procurement professionals, you are required to support and encourage the participation of small businesses in the goods and services arena as they are essential to North Carolina communities and economy. Research has confirmed that small businesses are the "backbone" of our economy. The inclusion of small businesses sustains the State's overall economy and vitalizes our local communities.

A. EO143 directed the HUB Office to work directly with the State Construction Office and State Purchasing Office to identify construction, purchasing and professional services contracts by state agencies that do not exceed \$250,000 to increase access to opportunities for small businesses.

1. A Procurement Planning Survey was sent to agencies on Friday, July 17, 2020. Each agency was asked to complete the survey and return it to P&C by August 15, 2020

B. The following FAQs will provide guidance for meeting EO143's directive to the State Purchasing Office. It says, "to further enhance and improve the State's good faith efforts to recruit diverse businesses for participation in public projects, the State Construction Office and State Purchasing Office shall develop a rule to require all projects to include at least one bid or proposal from a certified small historically underutilized business. Exceptions to this rule must be approved by the Secretary of the Department of Administration or her designee."

1. **Is the monthly report for ALL spend (under our delegation) including any amount in E-Procurement (ex. \$100 Purchase Requisitions) or for bids only?**

Bids only.

2. **When is the effective date?**

August 1, 2020. Additional resources should be available and on our website by Friday, July 31, 2020.

3. **Does the HUB vendor have to be certified?**

Yes. "HUB" has a statutory definition. Only certified HUB vendors can be counted. If you are working with a vendor that is not certified but meets the criteria for HUB certification, you should direct them to the HUB Office at (984) 236-0130 or [huboffice.doa@doa.nc.gov](mailto:huboffice.doa@doa.nc.gov).

4. **If a bid package includes a HUB vendor, who is not yet certified by the State as a HUB vendor, would the bid package still need to go to the DOA Secretary for approval before award?**

Yes, only HUB certified vendors relieve the requirement for an exception by the Secretary of Administration. If there is no certified HUB in the bid packet, then the packet would need to be forwarded to the Secretary for approval.

**5. Are the authorized purchases made by the DHHS-Division of State Operated Healthcare Facilities using Group Purchasing Organizations treated as an exempted purchase, similarly to State Term Contracts?**

These purchases are exempt as they would not be approved by the Secretary under any condition.

**6. Where do I send my request if the procurement is under my delegation?**

- a. If the procurement is under your delegation, send it to [EO143exceptions@doa.nc.gov](mailto:EO143exceptions@doa.nc.gov).
- b. The Subject Line of your submission should be structured as follows:
  - Agency, Bid#\_\_\_\_\_, Bid Title, Planned Award Date (e.g., DOA, 13-123456, Refuse Containers, 8/12/2020)
- c. To expedite the review of your EO143 Exception Request, you must include the following summary in the body of the email.

**Award Recommendation Details:**

- Agency:
  - Buyer:
  - Bid Method (RFP, IFB, Waiver)
  - Contract Term: (# Of Base Years/# Of Optional Renewals)
  - Requisition#:
  - Commodity Code:
  - Commodity Description:
  - Contract Amount:
  - # HUBSsolicited:
  - # HUB Bids Received:
- d. The Secretary's response will show "Approved" or "Disapproved" or "Tentative" in the Subject Line (e.g., APPROVED\_DOA, 13-123456, Refuse Containers, 8/12/2020). Be sure to check the body of the reply for additional comments.

**7. Where do I send my request if the procurement is above my delegation?**

If the procurement is over your delegation you would submit the request as you normally would to P&C. P&C will review the request and submit the request to the Secretary prior to SPO approval.

**8. If the procurement is over my delegation, what information do I submit to P&C?**

Each bid received must have at least one HUB vendor in the packet. If after bid opening, it is discovered that no HUB vendors submitted bids, then the contract award cannot be certified by P&C until after approval by the Secretary of Administration.

If you are recommending a non-HUB vendor for award, you are required to provide a detailed explanation in your Recommendation for Award to support your decision. Details should be provided in a [cover letter](#) that includes:

- Number of HUB vendors registered in IPS for the commodity code procured
- Total number of responses received
- Respond to: “Did you examine the procurement to ensure the product/service specifications, evaluation criteria or method, or response requirements did not present unintentional barriers to HUB participation?”
- Respond to: “Is there anything else that could have been done to ensure the inclusion of a HUB vendor?”

**9. How would I know if a vendor is HUB certified?**

A vendor should indicate their HUB status in their response to a solicitation document. You can also perform a vendor search in [Interactive Purchasing System \(IPS\)](#) to locate a vendor and their HUB status.

**10. What information should be included in the Monthly Report?**

For contracts below the agency’s delegation, you are required to submit a monthly report of all awards to the DOA Secretary. The report should provide the following details: transaction number, commodity code, contract amount, awarded vendor, awarded vendor HUB status (Small HUB, HUB, None). The following template is provided to assist you with your reporting. <https://files.nc.gov/ncdoa/pandc/OnlineForms/Monthly-Report-of-Awarded-Contracts-Month-2020.xlsx>

- If the awarded vendor’s HUB status is None, then provide the list of HUB vendors that submitted bids and justification to explain why a HUB vendor was not awarded the contract.
- If there were no HUBs in the bid packet, then those awards should have been approved by the Secretary of Administration prior to award.

**11. When is the monthly report due?**

The monthly report is due 1<sup>st</sup> work day of each calendar month. The report should cover the previous month’s awards.

**12. Regarding the Procurement Planning Survey, do we need to include STC purchases, procurements that will need to go out for bid and small (under \$5,000) procurements?**

The Procurement Planning survey is intended to be all inclusive due to its dual purpose (EO143 compliance and Annual Procurement Planning).

- a. Agencies are to include goods and services for which they plan to seek competitive bids and any item they procure on a repetitive basis, regardless of dollar value.

This information will be used to inform our decision to pursue Statewide Term Contracts, Agency Specific Term Contracts as well as to provide information to the HUB Office to identify potential HUB opportunities.

- b. Purchases from STC should not be included on the agency's procurement plans. We can see your purchasing behaviors within the eProcurement system.

**13. Does EO143 apply to non-competitive procurements?**

Yes. All competitive or non-competitive projects valued at \$250,000 and below are to include at least one bid or proposal from a certified small historically underutilized business. Exceptions to this rule must be approved by the Secretary of the Department of Administration or her designee.

**14. If a non-competitive procurement is contemplated, what additional information is required?**

The EO143 [Cover Letter](#) is required and must address the EO143 requirements. If the recommended vendor is not a certified HUB vendor, the Agency must detail whether a certified HUB vendor was considered in the selection. If a HUB Vendor was not selected for award, the Agency must provide a detailed explanation of why a HUB Vendor was not selected for award. In addition to the Cover Letter, the Agency must provide a separate justification for waiving competition.

**15. Once the Cover Letter, non-competitive procurement (waiver of competition) justification and RFQ are drafted, do we first send to DOA to approve and then send to P&C? Is there another order to the process?**

See Items 6 and 7 above.

**16. Does P&C prepare the cover letter if they post an Agency solicitation document for competitive bidding?**

No. Each Agency is responsible for preparing the Cover Letter. However, P&C will provide the Agency with information to assist them with preparing the cover letter, including the bid tabulation and the commodity code used.

**17. Does EO143 apply to orders Agencies place against State Term Contracts?**

No.

**18. What if I have additional questions regarding EO143 implementation?**

If you have questions or comment about EO143, you may submit your question to [EO143exceptions@doa.nc.gov](mailto:EO143exceptions@doa.nc.gov).

Subject line should begin with: "Question:"