

09 NCAC 06B .1005 ANTICOMPETITIVE, DECEPTIVE, AND FRAUDULENT PRACTICES

(a) A purchasing agency shall act to prevent the continuance of anticompetitive, deceptive, or fraudulent practices. Anticompetitive practices include actions involving offerors that restrain trade or commerce or eliminate competition.

(b) Anticompetitive, deceptive, or fraudulent practices may be evidenced by one or more of the following:

- (1) Conspiracy (in restraint of trade or commerce);
- (2) Combination bidding (in restraint of trade or commerce);
- (3) Price fixing (which may include reliance upon an industry price list);
- (4) Collusion;
- (5) Identical bidding;
- (6) Agreements to:
 - (A) Rotate offers;
 - (B) Share the profits with an offeror who is not the low offeror;
 - (C) Sublet work in advance of bidding as a means of preventing competition;
 - (D) Refrain from bidding;
 - (E) Submit prearranged offers;
 - (F) Submit complementary offers;
 - (G) Set up territories to restrict competition;
 - (H) Alternate bidding; or
 - (I) Any other unlawful act in restraint of trade or commerce.

(c) Agency actions to discourage or prevent the continuance of anticompetitive, deceptive, or fraudulent practices may include the following:

- (1) Rejecting the offending offeror's offer;
- (2) Awarding a bid to an offeror with a cost or technical proposal that is evaluated lower than the offending offeror's proposal; and
- (3) Recommending that the State CIO suspend an offeror from doing business with the State;

(d) The purchasing agency shall report evidence of anticompetitive, deceptive or fraudulent practices to the Attorney General's office and any other appropriate law enforcement authority.

*History Note: Authority G.S. 75-1, et seq.; 133-24, et seq.; 147-33.76(b1);
Temporary Adoption Eff. January 1, 2000;
Eff. August 1, 2000;
Amended Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*