**§ 115D-58.14. Purchasing flexibility.**

(a) Community colleges may purchase supplies, equipment, and materials from noncertified sources that are available under State term contracts, subject to the following conditions:

(1) The purchase price, including the cost of delivery, is less than the cost under the State term contract;

(2) The cost of the purchase shall not exceed the bid value benchmark established under G.S. 143-53.1; and

(3) The items are the same or substantially similar in quality, service, and performance as items available under State term contracts.

(a1) Notwithstanding the provisions of this section, a community college may purchase, in any lawful manner, an item that is neither available under State term contracts nor substantially similar to an item available under State term contracts.

(b) The State Board of Community Colleges and the Department of Administration shall jointly adopt policies and procedures for monitoring the implementation of this section, including without limitation (i) definitions of substantial similarity, (ii) the content and frequency of reports and audits of such purchases, and (iii) a process for identifying any term contract existing as of October 1, 2009, with respect to which the exercise of purchasing flexibility could constitute a breach of that contract.

In the formation of each new term contract entered into after October 1, 2009, the Department of Administration shall, in its discretion, either provide in the contract for the purchasing flexibility set out in this section or make the term contract inapplicable to community colleges.

(c) The State Board of Community Colleges, in consultation with the Department of Administration, shall review the purchasing process for community colleges and may increase or decrease the purchasing/delegation benchmark for each community college based on the college's overall capabilities, including staff resources, purchasing compliance reviews, and audit reports. The State Board may, in its discretion, reduce a community college's purchasing/delegation benchmark at anytime. The State Board shall not increase a community college's purchasing/delegation benchmark by more than fifteen percent (15%) in any calendar year without the concurrence of the Department of Administration within 60 days of submission. The maximum purchasing/delegation benchmark for a community college shall be one hundred thousand dollars ($100,000). (1998-68, s. 2; 2005-103, s. 5; 2009-132, s. 1.)