

**Exceptions Process Updates effective October 1, 2020**

1. **Requesters will engage immediately with subject matter experts in Procurement (Form A), Architecture (Form B) or Security (Form C) to develop the Exception.**
2. **An approved Privacy Threshold Analysis (PTA) is required.**
3. **Some slight changes have been made to the exception forms:**
	1. **Added whether it is a renewal or new request**
	2. **Added whether a procurement is associated**
4. **A new Standards Exception mailbox has been created.**
5. **All correspondence should be through the exceptions mailboxes (except for Requester’s mailbox). This is to enhance our ability to track status.**
6. **Form B Exceptions will be reviewed by one of the DHHS architects assigned to the requesting division/office.**
7. **BOTH Architecture and Security must sign off on Hosting Exceptions.**
8. **Architecture and Security will forward finalized Exceptions to the Exceptions Coordinator who will route for DocuSign.**
9. **For exceptions associated with procurements (most are) the DocuSigned exception forms will be returned to the Requester who will include them with the procurement package sent to OPCG.**
10. **For stand-alone exceptions, the Exceptions Coordinator in ITD will send DocuSigned forms directly to DIT for state approval.**

 **October 2020**

**Instructions for DHHS Exception Requests**

“Exception Request” refers to exceptions to certain State policies or regulations associated with procurements and aspects of information technology such as hosting environments or authentication protocols such as NCID.

There are three types of Exception Requests requiring approval at the DHHS and State level: (click on icons below for the forms):

1. **Sourcing, Form A:** These are procurement-related, frequently to sole source a vendor.
2. **Standards, Form B:** Exceptions such as hosting or authentication other than NCID.
3. **Security, Form C:**  Security standards.

There is another form which is required to accompany all Exception Requests. The [**Privacy Threshold Analysis**](https://it.nc.gov/documents/privacy-threshold-analysis-pta-form) (PTA) serves as the official determination as to whether a State program or system has privacy implications, and if additional privacy compliance documentation is required, such as a Privacy Impact Assessment (PIA). (Control-click the PTA link above for the form and specific instructions). After you click “Save,” copy the link and send it to Privacy and Security Office via the Security Exceptions mailbox. PSO will review and work with you for any changes and then will send the PTA to DIT for State approval. DIT will notify you (Requester) of their determination.

If you have an approved PTA, do not print out the form - just include the link with your Exception Request.

**Exceptions Process Flow**

Subject matter experts will assist in developing the various exception requests. The process flow is outlined on the following page.

**All Form A Exceptions (Procurement)** are to be sent with attachments (full procurement package) to DHHS.Procurement.ExceptionRequests@dhhs.nc.gov. This email is received by OPCG. In the cc: line, send to DHHS.ExceptionRequests@dhhs.nc.gov. No signatures are required since OPCS considers signatures on the Contract Approval Form (CAF) to be sufficient.

**All Form B Exception correspondence** is to be submitted to DHHS.StandardsExceptions@dhhs.nc.gov. This email is received by DHHS Architecture and will be reviewed by an assigned architect. Security will be cc’d.

**All Form C Exception correspondence** is to be submitted to DHHS.SecurityExceptions@dhhs.nc.gov. This email is received by PSO and will be reviewed by an assigned security official.

The DHHS Exceptions Coordinator will obtain signatures for Forms B and C and will forward the signed forms to you (Requester).

Important: To maintain continuity of the documentation, avoid use of personal email accounts (other than the requester’s email). All email correspondence regarding exceptions should occur within the various exception mailboxes.



**DHHS Sourcing (Procurement) Exception Request (Form A)**

Sourcing Exception Form A is used for making your procurement exception request. It is always accompanied by supporting documentation. You may already have an approved PTA. If so, include the link with your email request. If you do not have a related PTA, please refer to separate instructions for completing a new one.

The Sourcing Exception Form is part of a total “procurement package” that includes all supporting documentation such as a draft RFP/RFQ or existing contract (being amended or renewed); other procurement documents such as proposed amendments, vendor quotes, and BAFOs; the PTA; and other types of Exception Requests along with their required attachments. A complete procurement package is required before your Sourcing Exception Request will be considered.

The Exception process is NOT a contract approval process. Contracts move through their own approval reviews, using a Contract Approval Form (CAF) for signatures. Exception Requests will match up with contracts when OPCG assembles the procurement package and the signed CAF is sufficient to indicate Division approval of the Exception.

The Sourcing Exception or procurement package may include, but is not limited to, any of the following in editable formats:

- Draft Solicitation (IFB, RFQ, RFP)

- Vendor Quotes

- Draft Amendment

- Draft Notice of Extension

- Iran Divestment Certification Form

- BAFO (Best and Final Offer) Form

If you need assistance with any of the Sourcing Exception instructions here, please contact the Office of Procurement, Contracts, and Grants (OPCG) at 919-855-4086

Align your business need and procurement method and submit all required contract documentation (including justifications) for review with your Exception Request.

* Ensure you have a valid contract to renew/extend/amend. Work with your business owner to determine the appropriate procurement avenue.
* Always seek full competition whenever competition is available. When full competition is not available, an exception may be submitted for limited or waived competition pursuant to [09 NCAC 06B.0901](http://reports.oah.state.nc.us/ncac/title%2009%20-%20governor%20and%20lt.%20governor/chapter%2006%20-%20office%20of%20information%20and%20technology%20services/subchapter%20b/09%20ncac%2006b%20.0901.pdf).
* The Exception Form A is NOT required for IT procurement contracts below the $25,000 threshold.
* Form A Sourcing Exceptions are good for the duration of the contract, including extensions.
* If you have a procurement underway but do not know if you will need an Exception, it can be submitted later with supporting documentation.

**Types of Procurement Exceptions:**

* Contract Beyond 3 Years: Do you have a request involving a contract longer than 3 years? If yes, an exception must be submitted. If your answer is no, follow Statewide IT Strategic Sourcing procedures; no exception is required.
* Contract Beyond 3 Years with Existing Built-In Optional Renewals: If you have an approved existing contract with existing built-in optional renewals, and that will carry your contract beyond 3 years, no exception is required. DHHS must still submit all required paperwork to Statewide IT Strategic Sourcing in advance for each renewal option to be exercised. The last year of a renewal option will not be approved without the office/division providing a plan of action for the subsequent year. When all renewals are exhausted and the office/division plans to continue with an agreement that would limit or waive competition, an exception is required.
* Limited Competition (AKA “Brand Specific”): may be used when more than one vendor can supply a particular brand of product or brand of service to meet the DHHS requirement.
* Waived Competition (AKA “Sole Source”): may be used when only one vendor can provide a product or service to meet the DHHS requirement. The requirement can only be met by a unique good or service that is not offered by any other vendor; there is only one source of supply.

Each type of waiver of competition justification must explain why the product or service is singularly able to meet the requirements of the office/division and must irrefutably support the determination that no other product, service, or vendor can fulfill the requestor’s needs.

If a State Term Contract exists and the terms of the contract allow DHHS to utilize the State Term Contract to procure IT commodities or services, usually no exception is required. Review the [list](http://it.nc.gov/resources/it-strategic-sourcing/statewide-it-contracts) to determine your options or contact the managing contract specialist. If the terms of the State Term Contract do not allow DHHS to use the contract, an exception will be required.

Personal Services Contractspursuant [NCGS § 143B-1362](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_143B/GS_143B-1362.pdf) are outside the scope of the exception process. Your division/office should work directly with the DHHS Office of Procurement, Contracts and Grants (OPCG) to discuss what options are available under current laws.

**Justification and Business Case:**

Both the Justification and Business Case must be completed. The Justification section will explain why your initiative should be entitled to the exception (e.g., brand specific product consistent with the guiding authority). It should include historical information about why the exception is necessary and the administrative code provision or State standard that justifies approval of the exception. Be persuasive in this section and provide all relevant information that will help explain why the exception is critical to your business operations.

The Business Case section is designed to help answer why this exception is critical for your business operations. It should describe your business operations, the type of data involved, and the reasons why the specific product, contract term, security standard, etc., are needed to support your business need. To ensure that the exception request approver understands the context of your request, please provide chronological background information in the Justification and/or Business Case section.

When OPCG or Legal (if applicable) approves the final procurement document, that office will submit the Sourcing Exception form, any approved associated Exceptions, and all DHHS-approved supporting documents to the DIT IT Review Committee for review and approval.

**DHHS Standards Exception Requests (Form B)**

The DIT Secretary/State Chief Information Officer (SCIO) has statutory authority in planning and managing a framework that collaboratively develops and publishes information technology standards that guide architecture, design, engineering, procurement, and operational activities.

* While Sourcing Exception Requests are not required for IT procurement contracts less than $25,000, there is no dollar threshold for Standards Exceptions or PTAs.
* Form B Exception Requests and the PTA are approved for one year and must be renewed annually from the date of DIT approval.

**Hosting**

[NCGS § 143B-1365; Session Law 2016-94, Section 7.9(b)](http://www.ncleg.net/Sessions/2015/Bills/House/HTML/H1030v8.html) applies hosting requirements to State agencies, requirements that agencies must demonstrate when requesting an exception, and exception authority granted to the DIT Secretary/State Chief Information Officer (CIO).

State agencies shall use the State infrastructure to host their projects, services, data, and applications pursuant to current guiding authorities/laws.

The DIT Secretary/State Chief Information Officer (SCIO) has statutory authority in planning and managing a framework that collaboratively develops and publishes information technology standards that guide architecture, design, engineering, procurement, and operational activities.

Agencies seeking an exception must demonstrate justification in one of the following areas:

1. Using an outside contractor would be more cost effective for the State.
2. The Department [DIT] does not have the technical capabilities required to host the application.
3. Valid security requirements preclude the use of the State infrastructure, and a vendor can provide a more secure environment.
* [Session Law 2016-94, Section 7.9(b](http://www.ncleg.net/Sessions/2015/Bills/House/HTML/H1030v8.html)) includes an additional provision for cloud-based solutions.
* A hosting exception is NOT required if you are or will be hosting data or the application on State networks that are based at a DHHS site location.

**NCID Exception**

North Carolina requires all inter-agency and external facing solutions/applications that create content use the State’s Identity and Access Management solution (“NCID”).

A formal exception is required to use a solution other than NCID. The request must describe and justify use of an alternative authentication protocol.

The timing of a submission will vary. If the request is associated with an IT project, a hosting request may not occur until a vendor is selected.

**Justification and Business Case:**

The Justification and Business Case both must be completed. The Justification section will explain why your initiative should be entitled to the exception (e.g., brand specific product consistent with the guiding authority). It should include historical information about why the exception is necessary and the administrative code provision or State standard that justifies approval of the exception. Be persuasive in this section and provide all relevant information that will help explain why the exception is critical to your business operations.

The Business Case section is designed to help answer why this exception is critical for your business operations. It should describe your business operations, the type of data involved, and the reasons why the specific product, contract term, security standard, etc., are needed to support your business need. To ensure that the exception request approver understands the context of your request, please provide chronological background information in the Justification and/or Business Case section.

After technical approval, Form B will be signed off by Architecture, Division Director, and DHHS CIO. In the case of Hosting, PSO also will sign off. Approved Exceptions will be returned to the Requester whose responsibility is to send to OPCG along with all supporting documentation, including procurement information (new or existing contracts).

When OPCG or Legal (if applicable) approves the final procurement document, that office will submit the document and any approved associated Exceptions, all DHHS-approved supporting documents, and the Privacy Threshold Analysis links to the DIT IT Review Committee for review and approval.

DIT will return approvals or requests for revision/denials back to OPCG. OPCG will then communicate with the division as needed; either notifying them of approval or working with them to process revisions and resubmissions.

**If there is no associated procurement, ITD will send the Exception Request directly to DIT for State approval.**

Here is the current allocation of architects for each portfolio (monitored through the Standards Exception mailbox):

|  |  |
| --- | --- |
| **Red** - DSOHF, MH/DD/SAS   | Ian Evans |
| **Blue** - DPH, ORH | Chris Turpin |
| **Green** - NC Medicaid, DSS, OEO | Babita Savitsky |
| **Yellow** - Employment Services (DVRS, DSB, DSDHH, DDS), DCDEE, DAAS, DHSR | Jeremy Walker |
| **Gray** - All Other Divisions | Chris Turpin |

**DHHS Security Exception Requests (Form C)**

Pursuant to [NCGS § 143B-1377](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_143B/GS_143B-1377.pdf), agencies must complete and sign the necessary security, PTA, and/or data classification assessment for each request, which will also be signed by the PSO. This also includes if the procurement is a “Cloud Solution”. For example, a procurement may include a sole source solution that includes services handling sensitive or confidential data (e.g., PII, HIPAA, FERPA). The types of data and storage solution must be listed in the Business Case.

The DHHS Chief Information Security Officer (CISO) or designee should include a statement of review and/or compliance consistent with DHHS and state standards with each exception submitted. Ensure that all required State security policies are in place to protect sensitive data. Information is available at: [**https://it.nc.gov/documents/statewide-information-security-manual**](https://it.nc.gov/documents/statewide-information-security-manual)

**Industry Certification Report**

In some cases, pursuant to [NCGS § 143B-1378](http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_143B/GS_143B-1378.pdf), agencies will need to provide an industry certification report and in particular, for cloud-based hosting or application solutions. You will need to contact the vendor to obtain and provide a copy of its most recent third-party audit. Examples include SOC 2 Type 2, SSAE 16, ISO 27001, or FedRAMP certification reports.

**Justification and Business Case:**

The Justification and Business Case must both be completed. The Justification section will explain why your initiative should be entitled to the exception (e.g., brand specific product consistent with the guiding authority). It should include historical information about why the exception is necessary and the administrative code provision or State standard that justifies approval of the exception. Be persuasive in this section and provide all relevant information that will help explain why the exception is critical to your business operations.

The Business Case section is designed to help answer why this exception is critical for your business operations. It should describe your business operations, the type of data involved, and the reasons why the specific product, contract term, security standard, etc., are needed to support your business need. To ensure that the exception request approver understands the context of your request, please provide chronological background information in the Justification and/or Business Case section.

After technical approval, Form C will be signed off by PSO, Division Director, and DHHS CIO. In the case of Hosting, Architecture also will sign off. Approved Exceptions will be returned to the Requester whose responsibility is to send to OPCG along with all supporting documentation, including procurement information (new or existing contracts).

When OPCG or Legal (if applicable) approves the final procurement document, that office will submit the document and any approved associated Exceptions, all DHHS-approved supporting documents, and the Privacy Threshold Analysis links to the DIT IT Review Committee for review and approval.

DIT will return approvals or requests for revision/denials back to OPCG. OPCG will then communicate with the division as needed; either notifying them of approval or working with them to process revisions and resubmissions.

**If there is no associated procurement, ITD will send the Exception Request directly to DIT for State approval.**