

The University of North Carolina Policy Regarding Consulting Services

The State Consulting Act, N.C.G.S. §143-64.20 et. seq., requires State agencies to apply for and receive written approval from the Governor prior to entering into consulting contracts. In response to a recommendation from the University of North Carolina Presidential Advisory Committee on Efficiency and Effectiveness (PACE) initiative, the General Assembly in 2006 amended the Act, and added N.C.G.S. §143-64.24(8) to exempt the University of North Carolina from this provision. In addition to granting the exemption, the statutory change requires the Board of Governors to “adopt policies and procedures governing contracts to obtain the services of a consultant by the constituent institutions of the University of North Carolina.”

University consulting contracts have historically been treated differently under the State Consulting Act. Since 1977, UNC has received an exception to the statutory requirement for consulting contracts related to those contracts and grants in support of academic programs. The formal agreements, previously stated in Administrative Memoranda 87 and 104, were incorporated into the UNC Policy Manual as §600.5.4[G] in 1981, to memorialize the understanding between the University and the Department of Administration, that consulting contracts for services related to instructional services, curriculum development, and academically-oriented research were exempt from the State Consulting Act. The constituent institutions have approved the above mentioned consulting contracts, under §600.5.4[G] and prior Administrative Memoranda, for more than 30 years without external approval and have done so in in a compliant manner.

Consulting contracts that are professional service in nature have not received the exemption and were, therefore, subject to the requirements of the State Consulting Act. It is the intent of the statutory change and the proposed policy to unify the administration of consulting,

professional, and personal service contracts into a single procurement process that is exempt from the State Consulting Act, is consistently applied and adheres to university procurement compliance standards.

In order to achieve this goal, UNC General Administration's division of Legal Affairs solicited suggestions from constituent institutions for policy language to implement the broader exemption in N.C.G.S. §143-64.24(8). The responses favored simplicity and approval of contracts at the constituent institution level, use of uniform professional service procurement standards, and an annual due diligence reporting requirement. In an effort to ensure the goal of efficiency, while maintaining accountability, the proposed policy authorizes approval of consulting contracts by the Chancellor, provided that the amount is under the campus's delegated contracting benchmark. Further, the proposed policy requires constituent institutions to report all consultant contracts to the Vice President for Finance at UNC-GA, at least annually. The minimal reporting requirement is meant to facilitate an understanding of the constituent institutions' use of consulting services, and to further transparency in obtaining consulting services. In the event that the amount of the contract exceeds the constituent institution's benchmark, they must seek approval from the Vice President for Finance at UNC-GA.

Adoption of the new Board Policy §600.5.4 will make the current §600.5.4[G] Guideline obsolete, and its revision or repeal necessary. In addition, this change will require constituent institutions and other units of the university to update current contracting procedures.

It is recommended that the Committee on Budget and Finance approve the proposed policy to enable compliance with, and the utilization of, the consulting service flexibility as permitted by N.C.G.S. §143-64.24(8).

**Proposed Policy §600.5.4**

Pursuant to N.C.G.S. §143-64.24(8), the Board of Governors adopts the following policies and procedures governing contracts to obtain the services of a consultant by the constituent institutions and other units of the University of North Carolina.

- I. “Consulting services” shall mean work or task(s) performed by governmental entities or independent contractors possessing specialized knowledge, experience, expertise, and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or services. This includes but is not limited to the organization, planning, directing, control, evaluation, and operation of a program, agency or department.
- II. The Chancellors, or the Chancellors’ designees, are authorized to approve contracts for consulting services to a constituent institution when the services are determined to be in the best interest of the University, and the amount is not above the constituent institution’s management flexibility purchasing benchmark.
- III. The University of North Carolina Vice President for Finance is authorized to approve contracts for consulting services above the constituent institution’s management flexibility purchasing benchmark.
- IV. Contracts for consulting services for a constituent institution shall be:
  - a. Consistent with all applicable policies and procedures adopted by the constituent institution for the procurement of services, including policies and procedures for

personal and professional services, competitive bidding, and sole-source justifications.

- b. Reported to the University of North Carolina Vice President for Finance at least annually.
- V. Contracts for consulting services for other units of The University of North Carolina shall be:
  - a. Approved by the President or the President's designee consistent with all applicable policies for the procurement of services including policies and procedures for personal and professional services, competitive bidding, and sole-source justifications.
  - b. Reported to the University of North Carolina Vice President for Finance at least annually.
- VI. Contracts for the use of individuals for instructional services, curriculum development and conducting academically oriented research, formerly covered under Board of Governors Policy Guideline §600.5.4[G], remain exempt from the State Consulting Act, and are exempt from the reporting requirements of Sections IV and V of this Policy, but must comply with all applicable policies and procedures adopted by the constituent institution or other unit of the University of North Carolina for the procurement of academic and research consultant services.