

ADMINISTRATIVE MEMORANDUM

SUBJECT State Consulting Act

NUMBER 155

DATE June 30, 1981

The State Consulting Act (codified as F.S. Chapter 143, Article 30), created several problems regarding the administration of grants and contracts in support of academic programs involving instruction, research, and public service. A series of discussions between University officials and persons in the Division of Purchase and Contract resulted in several understandings regarding the implementation of the Act. Those understandings and executive actions have been reviewed and slightly modified. This memorandum reflects those modifications and supersedes Memorandum 104.

1. "Consulting" means work or tasks performed by state employees or independent contractors possessing specialized knowledge, experience, expertise, and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis, or advise 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.
2. The use of individuals for instructional services, curriculum development and conducting academically oriented research is exempt from the otherwise prescribed procedures. This exemption does not, however, include the use of consultants for the primary purpose of assisting administrators with management decisions.
3. In those cases where the sponsoring organization requires that subcontractors be named in the proposal and such subcontractors are not exempt by the above criteria, approval must be obtained from the Division of Purchase and Contract before the proposal is submitted.
4. All responsible effort will be made to keep the time for responding to requests for approval of the employment of consultants to less than thirty days from the filing of the request.
5. Members of the University Council on Research will serve as a principal source of information for faculty at the constituent institutions and persons in the division of Purchase and Contract for the purpose of implementing the State Consulting Act. These university officials will assist persons preparing proposals, whenever necessary, in following required procedures. Furthermore, they will assist the Division of Purchase and Contract in identifying persons and/or departments that may be available for consulting with agencies of state government.

The President of The University of North Carolina has designated and authorized the Chancellor of each institution to approve consulting contracts on behalf of his institution, and Dr. E. Walton Jones to authorize consulting contracts for The University of North Carolina General Administration. The persons named below, upon the request of the respective Chancellors, are authorized to sign consulting contracts on behalf of the institutions listed. This list is subject to further conclusions as may be needed and as requested by the Chancellors.

Appalachian State University	Dr. Harvey Durham Vice Chancellor for Academic Affairs
East Carolina University	Dr. Robert H. Franke Director of Sponsored Programs
Elizabeth City State University	Dr. Jimmy R. Jenkins Vice Chancellor for Academic Affairs
Fayetteville State University	Dr. Richard Hogg, Provost and Vice Chancellor for Academic Affairs
North Carolina A & T State University	Dr. Howard Robinson Director, Research Administration
North Carolina Central University	Dr. Cecil L. Patterson Vice Chancellor for Academic Affairs
North Carolina School of the Arts	Dr. Martin Sokoloff Vice Chancellor for Administration
North Carolina State University	Dr. Henry B. Smith, Dean, Research Admin. Dr. Vivian T. Stannett (Alternate) Dean, Graduate School
Pembroke State University	Dr. Paul R. Givens, Chancellor
UNC-Asheville	Dr. Laurence A. Dorr Vice Chancellor for Academic Affairs
UNC-Chapel Hill	Dr. Rollie Tillman, Jr. Vice Chancellor for University Relations
UNC-Charlotte	Dr. Robert D. Snyder Interim Vice Chancellor for Academic Affairs
UNC-Greensboro	Dr. Stanley L. Jones Vice Chancellor for Academic Affairs Mr. Fred L. Drake (Alternate) Vice Chancellor for Business Affairs
UNC-Wilmington	Dr. William H. Wagoner, Chancellor Dr. James C. Edmundson Director of Special Programs
Western Carolina University	Dr. Robert E. Stoltz Vice Chancellor for Academic Affairs
Winston-Salem State University	Mr. Robert Fenning Director, Institutional Research

February 2, 1982

MEMORANDUM

TO: Walton Jones
FROM: David Edwards *DE*
RE: Administrative Memorandum #155 (State Consulting Act)

Today I had the first opportunity to review Administrative Memorandum #155, concerning understandings and delegations with respect to the State Consulting Act as it pertains to The University. Though dated June 30, 1981, and numbered the same as an Administrative Memorandum dated June 14, 1981, Administrative Memorandum #155, I understand, was not distributed until January 28, 1982.

Two observations need to be made about the Administrative Memorandum as distributed.

First, the memorandum identifies certain University officers as having been authorized to approve consulting contracts in behalf of their respective institutions or agencies. Such authorization, unless carefully read in conjunction with prior paragraphs of the memorandum, could be construed in an overbroad fashion, so as to fail to limit that authority to only consulting contracts for University instructional services, curriculum development, and academically oriented research.

Second, the memorandum does not remind the reader that the identified exemption for certain University consulting contracts from consulting contract clearance does not relieve the University institution or agency from other contract requirements such as competitive bid procedures (unless there is exemption from them also under other Purchase and Contract standards).

Services acquired by a State agency in a manner contrary to the statutes or Purchase and Contract regulations are void and make "the executive officer" of the agency "personally liable for the costs thereof." It is, therefore, my suggestion that a supplemental or corrective memorandum clarifying these two points be issued soon.