



Ralph Campbell, Jr.
State Auditor

STATE OF NORTH CAROLINA
Office of the State Auditor

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March 9, 2004

Dr. James Moeser, Chancellor
University of North Carolina-Chapel Hill
103 South Building
Campus Box 9100
Chapel Hill, NC 27599

Dear Dr. Moeser,

We received an allegation through the State Auditor's Hotline concerning the University of North Carolina-Chapel Hill (UNC-CH) Athletics Department. The complaint states a Pressure Cleaning Company (Company) receives all jobs to power-wash Kenan Stadium without going through the competitive bidding process.

We have completed a special review of this allegation. The following is a summary of our findings and recommendations based on information gathered through interviewing personnel and examining relevant records.

We discussed the complaint with the UNC-CH Director of Contract Services and Stores (Director). The Director stated a convenience standing order was created with the Company to facilitate the work. A convenience standing order is created for services rendered on an as needed basis. When work is performed, it is charged against a standing order. According to the Director, these jobs are hard to competitively bid because the work is done on an as needed basis; therefore, it is difficult to establish a dollar figure for bidding purposes. Additionally, a convenience standing order cannot exceed \$25,000 per year, no single invoice can exceed \$5,000, and these services can only be on an as needed basis. The convenience standing order is available to any department at UNC-CH. Each individual department has the discretion to decide when to use this policy and whom to hire to complete the services. The Director said the convenience standing order policy is not in writing.

According to the Director, the Company has performed services for UNC-CH for at least the past three years. UNC-CH arranged convenience standing orders with the Pressure Cleaning Company in 2001, 2002 and 2003, for \$17,000, \$15,000 and \$10,000, respectively. These amounts were derived from estimates based on prior year work. Amounts paid to the Company for each of the three years were \$16,850, \$14,700 and \$10,500, respectively.

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The Director said in the past UNC-CH obtained formal quotes for a pressure-washing contract; however, the practice was stopped when the demand for pressure washing became more sporadic. The Director said market research is still performed for a price comparison but because each individual cleaning is under the \$5,000 threshold, competitive bidding is not required.

We spoke to the Purchasing Manager (Purchasing Manager) for Contracted Services with the Purchase and Contract Division of the Department of Administration. The Purchasing Manager said that any agreement for services over \$5,000 requires quotes and competition should be solicited. At a minimum, UNC-CH should have attempted to obtain quotes. This information is available in the North Carolina Administrative Code:

NCAC 05B.0301 (2)(a) Purchases Governed by General Delegation or Statute

For purchases made by a university or agency involving an expenditure of public funds over five thousand dollars (\$5000):

- (1) Competition shall be solicited;*
- (2) Solicitation documents requesting or inviting offers shall be issued*

According to the Purchasing Manager, if quotes were unattainable, UNC-CH should have documented an explanation. Additionally, if the pressure cleaning company was a sole source service provider, UNC-CH should have documented the reasons why another vendor could not provide these services. Additionally, the Purchasing Manager stated this arrangement appears to be bypassing the \$5,000 threshold for bidding. Since the cumulative total each year is greater than \$5,000, these jobs should be grouped together and competitively bid as one contract. The Purchasing Manager referred us to the North Carolina Administrative code to address this issue.

NCAC 05B.0315 Division of Requirements

An agency shall not divide requirements in order to keep the expenditure under its benchmark or delegation and thereby avoid following the appropriate contracting requirement. In the case of similar and related items and groups of items, the dollar limits apply to the total cost rather than the cost of any single item.

We recommend UNC-CH implement written purchasing procedures that are in compliance with the North Carolina Administrative Code.

We are presenting these findings and recommendations for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by March 23, 2004.

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General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with this mandate, and our standard operating practice, we are providing copies of this management letter to the Governor, the Attorney General, and other appropriate officials.

If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from the employees of UNC-Chapel Hill.

Sincerely,

A handwritten signature in black ink that reads "Ralph Campbell, Jr." in a cursive script.

Ralph Campbell, Jr., CFE
State Auditor

Management letters and responses receive the same distribution as audit reports.



THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL
Office of the Chancellor

James C. Moeser
Chancellor

March 22, 2004

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james_moeser@unc.edu

Mr. Ralph Campbell, Jr.
State Auditor
2 S Salisbury Street
20601 Mail Service Center
Raleigh NC 27699-0601

Dear Mr. Campbell:

On July 28, 2000, The University of North Carolina at Chapel Hill issued a bid for pressure washing Kenan Stadium on a regular basis. There were only two respondents – a bid for \$27,500 and another for \$19,700. The low bidder was awarded the contract. After the work was performed, the low bidder notified the University that they were no longer interested in pressure washing Kenan Stadium due to lost revenue.

After the contract period, the Athletic Department determined that pressure washing Kenan Stadium on an "as needed basis" would be more cost effective and still meet their quality standards. University Purchasing and the Athletic Department determined it was acceptable under the circumstances to enter into a convenience contract with the previous higher bidder due to the following factors: (1) the service was changed to an "as needed" basis, (2) we did not anticipate exceeding the competition threshold since the average cost of each cleaning ranged between \$1,000 and \$2,000, (3) an attempt to solicit competition from another known pressure washing firm failed to produce a response, and (4) the previous high bidder was the only other respondent in the original bid process. There was never intent to avoid the competitive process.

We realize a convenience contract does not relieve the University from soliciting competition between \$5,000 and \$10,000 and that at the \$10,000 threshold a formal bid should occur. UNC Purchasing and the Athletic Department agree a formal bid process will once again be attempted for pressure washing services at Kenan Stadium effective immediately.

Very sincerely,

A handwritten signature in black ink, appearing to read "James Moeser", enclosed within a hand-drawn oval.

James Moeser

JM:bl

cc: Nancy D. Suttentfield
Roger D. Patterson
Martina K Ballen
Richard A. Baddour
Phyllis C. Petree
Martha J. Pendergrass

Moeser/campbell032204

The University of North Carolina at Chapel Hill is a constituent institution
of The University of North Carolina