



STATE OF NORTH CAROLINA
Office of the State Auditor

Leslie W. Merritt, Jr., CPA, CFP
State Auditor

2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601
Telephone: (919) 807-7500
Fax: (919) 807-7647
Internet
<http://www.ncauditor.net>

December 6, 2005

Dr. James C. Renick, Chancellor
North Carolina A & T State University
1601 E. Market Street
Dowdy Administration Building
Greensboro, North Carolina 27411

Dear Chancellor Renick:

We received a complaint through the State Auditor's Hotline, alleging the former Physical Plant Manager for North Carolina A & T State University violated procurement policies and accepted meals from vendors.

We have completed a special review of these allegations. The following findings and recommendations are based on examination of contract bid proposals; examination of vendor expense records; review of applicable General Statutes and University policies; and interviews with University and vendor employees.

Acceptance of Meals from Vendors / Violation of State Law

The Physical Plant Manager said he received lunches from a vendor under contract to the University. He said he went to lunch on several occasions with two employees of Johnson Controls, Inc. These statements were confirmed through interviews with vendor employees and expense records provided by an attorney representing Johnson Controls, Inc. These expense reports detail nine lunches with a total value of \$274.06.

In our opinion, the Physical Plant Manager's acceptance of these lunches is a violation of North Carolina General Statute §133-32, Gifts and Favors regulated.

§ 133-32. Gifts and favors regulated.

- (a) It shall be unlawful for any contractor, subcontractor, or supplier who:
- (1) Has a contract with a governmental agency; or
 - (2) Has performed under such a contract within the past year; or
 - (3) Anticipates bidding on such a contract in the future
- to make gifts or to give favors to any officer or employee of a governmental agency who is charged with the duty of:
- (1) Preparing plans, specifications, or estimates for public contract; or
 - (2) Awarding or administering public contracts; or
 - (3) Inspecting or supervising construction.

It shall also be unlawful for any officer or employee of a governmental agency who is charged with the duty of:

- (1) Preparing plans, specifications, or estimates for public contracts; or
 - (2) Awarding or administering public contracts; or
 - (3) Inspecting or supervising construction
- willfully to receive or accept any such gift or favor.
- (b) A violation of subsection (a) shall be a Class 1 misdemeanor.
 - (c) Gifts or favors made unlawful by this section shall not be allowed as a deduction for North Carolina tax purposes by any contractor, subcontractor or supplier or officers or employees thereof.
 - (d) This section is not intended to prevent the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participation in all scheduled meeting functions available to all members of the professional organization attending the meeting. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donor to the agency head if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift. (1981, c. 764, s. 1; 1987, c. 399; 1993, c. 539, s. 970; 1994, Ex. Sess., c. 24, s. 14(c).)

We also determined that the following University policy on Conflict of Interest and Commitment does not specify that employees involved in preparing, awarding, and supervising public contracts cannot accept gratuities.

VI. Category II: Activities that May Be Allowable Following Disclosure and, Where Necessary, the Implementation of Monitoring Procedures

- (h) Acceptance by the University employee or a member of his or her family of other than nominal gratuities or special favors from one whom the individual knows is doing business with or proposing to do business with the University. Nominal may include meals or gifts of text.

Recommendations

We recommend University administration train all University employees involved with contract administration about the provisions of G.S. § 133-32.

We also recommend the University review its policy on accepting nominal gratuities, such as meals, for employees that administer public contracts in order to comply with G.S. § 133-32.

Dr. James C. Renick, Chancellor
December 6, 2005
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Please provide your written response to these findings and recommendations, including corrective actions taken or planned, by December 20, 2005.

In accordance with General Statute § 147-64.6(c) (12), the Governor, the Attorney General and other appropriate officials will receive copies of this management letter.

If you have any questions or wish to discuss this matter further, please contact us.

We appreciate the cooperation received from employees of North Carolina A & T State University.

Sincerely,

A handwritten signature in black ink that reads "Leslie W. Merritt, Jr." in a cursive script.

Leslie W. Merritt Jr., CPA, CFP
State Auditor

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



NORTH CAROLINA AGRICULTURAL AND TECHNICAL
STATE UNIVERSITY

Office of the Chancellor

December 20, 2005

Mr. Leslie W. Merritt, Jr., CPA, CFP
State Auditor
2 S. Salisbury Street
20601 Mail Service Center
Raleigh, NC 27699-0601

Dear Mr. Merritt:

This is our response to your draft letter of December 6, 2005 regarding the special review recently completed by your office concerning the Acceptance of Meals from Vendors. We have reviewed the information, finding and recommendation. We offer the following response.

Finding: Acceptance of Meals from Vendors

Recommendation:

We recommend the University administration train all University Employees involved with contract administration about the provisions of G.S. subsection 133-32.

We also recommend the University review its policy on accepting nominal gratuities, such as meals, for employees that administer public contracts in order to comply with G. S. subsection 133-32.

Response: We concur.

Action Taken:

Our Conflict of Interest Policy has been enhanced to include provisions of G.S. subsection 133-32. A memo has been sent to all employees with an attachment detailing the revised Conflict of Interest policy.

The provisions of the statute will be included in our annual conflict of interest notification sent to all employees. Also, the Purchasing Office will include the provisions of the statute in their ongoing training workshop.

If you have any questions or wish to discuss this matter further please contact us.

Sincerely,

A handwritten signature in blue ink that reads "James C. Renick".

James C. Renick, Chancellor

From Generation to Generation: The Campaign North Carolina A & T

1601 East Market Street • Greensboro, NC 27411 • (336) 334-7940 • Fax (336) 334-7082