



STATE OF NORTH CAROLINA
Office of the State Auditor

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

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April 17, 2008

Dr. Patricia A. Sullivan, Chancellor
University of North Carolina at Greensboro
1000 Spring Garden Street
Mossman Building
Greensboro, North Carolina 27402-6170

Dear Chancellor Sullivan:

We received a complaint through the *State Auditor's Hotline* concerning the improper contracting for services and related employment issues. In response to this allegation, we reviewed six contracts with outside contractors and an employment contract with a University of North Carolina at Greensboro (University) employee. Pursuant to North Carolina General Statute §147-64.6(c)(16), our investigation of this matter resulted in the following findings and recommendations.

The Vice Chancellor for Information Technology Services (ITS) bypassed University policies and procedures in the engagement of a contractor

The Vice Chancellor for ITS independently entered into a contract with a part-time independent contractor who was allowed to commute from California and Nevada to perform services for the University resulting in state expenditures of \$431,925 over two years. The contract consisted of a two paragraph "memorandum for the file", addressed to the contractor from the Vice Chancellor for ITS, with the beginning date, hourly rate, and the approval by the Vice Chancellor for ITS for the (anticipated) invoiced services and expenses, all characterized as an "agreement" between the two individuals, with no other approval(s). This engagement was the result of a recommendation by a paid advisor to the Vice Chancellor for ITS by which she referred her former employee. The Vice Chancellor for ITS accepted the recommendation and hired the person without posting the position, interviewing others or competitively bidding for the contract. According to the Vice Chancellor for ITS, the original intent was to engage the contractor for less than a year to ensure the Banner Finance administrative system was delivered on time, but the contract was extended to two years without identifying specific projects or services to be delivered. At the time of the contract extension, the Vice Chancellor authorized a pay increase from \$150 per hour to \$200 per hour after the contractor requested a higher rate. There was no documentation to justify the higher rate.

In addition, the contract did not specify a time period for the work effort nor did it contain adequate terms and conditions to protect the University. Also, the Vice Chancellor for ITS did not document the contractor's accomplishments or performance evaluations. As a result, it appears the Vice Chancellor for ITS created and administered an arrangement that is inappropriate because internal controls were not effective.

These actions by the Vice Chancellor of ITS took place without following University procedures. The University's legal counsel indicated he had not seen the contract even though University policy requires legal review for all contracts issued by the University. The Vice Chancellor for Business Affairs did not sign the contract as stated in the University's policy. There was no documentation to indicate the ITS Department communicated with the University's Purchasing Department as per the University's procedure. An ITS official indicated they generally did not review services contracts with the Purchasing Department.

The Vice Chancellor for ITS stated the services could not be provided by any current employee and indicated there was a lack of outside qualified external applicants based on a job search he had conducted previously for a similar position. He also indicated the contractor could begin work soon after his interview and it was helpful to get someone on board quickly.

Recommendation

Ensure the required approvals are obtained for proper authorization of contractual services. These approvals are to include those from the University's Legal, Business Affairs and Purchasing Departments. The Vice Chancellor for Business Affairs should review and sign the contracts as stated in the University's procedure. Documentation should be maintained to indicate all necessary reviews and approvals have been obtained prior to executing contracts and contract extensions. University policies and procedures that address accountability should be relevant, adequate, and consistent.

Contract resulted in excessive expenses - half of which were paid out of the Education and Technology Fee Network Access fund

The contractor worked an average of twenty hours a week from October 2005 through October 2007. Payments from state funds of \$431,925 were made to the contractor. This amount is estimated at 83% more than the equivalent hours of salary plus benefits earned by the current Associate Vice Chancellor for Administrative Systems, who has comparable duties. In our opinion, a more cost-effective solution could have been obtained.

Payments of \$366,850 were related to the contractor's labor and payments totaling \$65,075 were related to his commute from Los Angeles, California and occasionally from Las Vegas, Nevada. His labor and expense reports were approved primarily by the Vice Chancellor for ITS. In most cases, the documentation for meals took the form of a credit card receipt showing only the total purchase amount. Many of the receipts submitted appeared to be excessive, including 22 meals in excess of \$50. We noted two purchases of an alcoholic beverage, which is prohibited by state policy when state funds are used. We also noted ten meals that appeared to be purchases for more than one person and several occasions when meals were purchased for University employees while discussing business at lunch, also prohibited by state policy. Since most receipts submitted for reimbursement were not itemized, we were not able to determine whether other unallowable expenses were paid from state funds. The Vice Chancellor for ITS admitted he did not review the contractor's expenses in detail.

During 2006 and 2007, the ITS organization's main operating account was depleted and the Education and Technology Fee Network Access fund was used to pay for \$211,954 of the contractor's expenses. According to the University of North Carolina Chart of Accounts, this fund is funded through student fees and was established for the provision of specialized instructional supplies and services and for scientific and data processing equipment which are not directly related to specific courses. In addition, the University of North Carolina Policy Manual, a manual containing presidential regulations and guidelines, and policies promulgated by the Board of Governors, states fees are to "be charged only for limited, dedicated purposes and shall not be used to defray the costs of general academic and administrative operations of campuses." It further states the Board of Governors "will make every effort to keep fees for students as low as possible."

Our office concurs with such a concept of fees whereby students are led to believe a specific fee is for a specific purpose. In the absence of sufficient controls over the improper transfer of funds by University officials, the ITS department appears to have been granted excessive authority and discretion in the use of University and taxpayer funds. Documentation indicated the University

Budget Director, now the Vice Chancellor for Business Affairs, had approved the use of this fund for the contractor's expenses. The Vice Chancellor for ITS indicated these funds can be used for any purpose that other state funds can be used.

Recommendation

The University should implement improvements in internal control to ensure contractor expenses are reasonable, necessary, allowable, and funded under University and State regulations. Management should use funds only for their intended purpose especially for funds which are supported by student fees. The Vice Chancellor for Business Affairs should independently develop a "should-cost"¹ analysis for services contracts to ensure their cost effectiveness. Also, the University should seek to recoup contractor payments that are unallowable under the terms of the contract or state policies.

No documentation for waiving competition for services contracts

Our office selected five other contracts for services initiated by the Vice Chancellor for ITS which represented \$212,762 in expense during fiscal years 2006 and 2007. None of these contracts were bid competitively nor was there any documentation indicating the reason for not competitively bidding them. The University's purchasing policy and the North Carolina Administrative Code (01 NCAC 05B .1402) assert that competition is to be sought wherever practical. The North Carolina Administrative Code (01 NCAC 05B.0312) further states where reasonable and available competition is not obtained, the reason shall be ascertained and made a matter of record.

¹ "Should Cost" Analysis is an independent calculation used to document what a reasonable cost should be to perform the task.

It is our opinion that competitive bidding should be waived only when valid reasons exist to preclude this action. Competitive bidding promotes cost reduction, fosters standardized terms and conditions and reduces the risk of impropriety. Based on the lack of documentation regarding competition for these contracts, it appears the intent of the purchasing policy and regulations was not properly carried out.

Recommendation

The University should seek competitive bids for services contracts whenever practical. Consider changes in the procedures to remove the clause that states it is permissible to waive competition for personal or particular professional services (The conditions for a waiver of competition are covered elsewhere in the procedures). In cases in which competition for services is not available, ensure documentation is maintained to justify this determination.²

The Vice Chancellor for ITS hired an employee without requiring the employee to fulfill the position's responsibilities

The Vice Chancellor for ITS significantly changed the responsibilities for the interim Assistant Vice Chancellor for Information Technology (IT) position without documenting the revised position's responsibilities. The employee indicated the technical responsibilities such as those related to data warehousing were removed. The employee was working in another University position when she was hired for the ITS position. Since the ITS position's responsibilities were changed significantly when compared to the position description of Assistant Vice Chancellor for IT that was referenced on the documentation provided to the University Human Resources Office, it is questionable whether the employee qualified for the official position of the Assistant Vice Chancellor for IT. The Vice Chancellor for ITS sent a memo to his senior ITS staff with the notice of this new employee and assignment. However, one co-worker who worked closely with the employee said he thought the employee was a consultant rather than the interim Assistant Vice Chancellor for IT. It can have a negative effect on the organization's morale when personnel decisions are made without using standard criteria or when positions are not understood.

The employee said the Vice Chancellor for ITS indicated he created an interim position because he could not fill the permanent position in a timely manner. In response to the Vice Chancellor for ITS's request for a temporary waiver to forego the search process for this and two other positions, the Affirmative Action Office permitted the waiver conditional on the understanding that the employee met the minimum qualifications for the position. An official from the Human Resources Office indicated her office does not review job applicant qualifications for temporary assignments.

² These recommendations have also been communicated to the North Carolina Department of Administration Division of Purchase and Contract.

The table below compares the employee's assigned responsibilities to the responsibilities which were listed in the University's official description of Assistant Vice Chancellor for IT but not assigned to nor performed by the employee.

Employee's assigned responsibilities	Assistant Vice Chancellor for IT responsibilities neither assigned to nor performed by the employee
Metrics plan	Project leader for Banner Finance and Human Resources systems
Client survey plan	Project leader for information systems audit
Internal/external communications plan	Disaster recovery and business continuity plans
Client relations strategy	IT leader for overall Banner administration and data warehousing plan
Integration of 5-year plan with priority tasks, IT projects, and UNC Board of Governors' goals	IT outsourcing contract negotiation and management
Facility use survey	University Electronic Records Officer

Source: Office of the State Auditor based on employee interview

Recommendation

Ensure qualifications of job applicants are consistently evaluated against standard job descriptions. Change the University's policy to require written job descriptions for all University positions. Require the University's Human Resources Office's approval of temporary assignments as well as the associated job descriptions and employees' compensation. Assess reasons for the failure to fill the Assistant Vice Chancellor for IT position in a timely manner so that improvements can be made in future hiring practices.

Please provide your written response to these findings and recommendations, including corrective actions taken or planned, by May 13, 2008. In accordance with General Statute §147-64.6(c)(12), the Governor, the Attorney General, and other appropriate officials will receive a copy 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 the employees of the University of North Carolina at Greensboro during our review.

Sincerely,



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

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



THE UNIVERSITY of NORTH CAROLINA
GREENSBORO

Chancellor's Office

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336.334.5266 Phone 336.256.0408 Fax

May 15, 2008

Mr. Leslie W. Merritt, Jr.
State Auditor
20601 Mail Service Center
Raleigh, NC 27699

Dear Mr. Merritt:

We are in receipt of your letter dated April 17, 2008, regarding the 2006 Hotline call you received about the contracting of personal services. We will respond in both specific terms (the particular contract, and the particular personnel action cited) and general terms (what the University will do).

We want to emphasize that no malfeasance or wrongdoing occurred and the outcomes were excellent. Our own review of the facts, circumstances, and results achieved with regard to the contract expenditures at issue shows that the State received excellent value. UNCG hired the best contractor to help to manage a difficult, mission-critical, systems implementation. In an area in which many agencies and colleges nationally have had expensive systems implementation failures, UNCG was successful – and, in systems implementations, nothing is more cost-effective than success. UNCG's high standing in administrative systems has been validated by the recent Ernst & Young "operational assessment" for the UNC System. UNCG's recognition in the UNC System as a leader in managing administrative systems has resulted from UNCG's careful attention to the complexities and risks involved, and the time and costs required to implement new systems. UNCG did the same during the period cited in your finding. Nevertheless, we acknowledge that processes and procedures always can be improved. UNCG is taking this opportunity to implement several improvements to procedures regarding personal services contracts.

In the personnel action cited here, UNCG used interim appointments to do needed work, at no increase in costs to the University, and we see no reason to change our procedures.

We will respond to the four sections of the OSA Investigations unit's finding. Sections 1-2 relate to the contractor. Section 3 relates to documentation. Section 4 relates to the interim personnel matter. Forthcoming changes to UNCG processes are summarized in the last part of this response.

Sections 1-2

We concur that there is: 1) a need to clear all contracts through Purchasing (and, if needed, through University Counsel), carefully detailing work to be performed to ensure that such agreements are for contracted personal services; 2) a need to diligently control contractor expenses; and 3) a need to thoroughly document reasons and research supporting this conclusion where competitive procurement should be waived due to business requirements and public interest. UNCG will have fully embedded process improvements related to these issues into our practices effective July 1, 2008.

Most attention in this finding addresses contracted services procured by the UNCG Division of Information Technology and Planning (ITP) (now called “Information Technology Services,” or “ITS”) based on a memorandum of agreement dated October 11, 2005. As background, this agreement was for highly specialized services to temporarily manage increasingly complex Administrative Systems during a major Enterprise Resource Planning (ERP) implementation (“Banner Finance”), while retaining staffing flexibility during this transitional period. This requires deep technical knowledge, exemplary skills in interpersonal communication, as well as significant knowledge of the business processes of a large university. The individual selected by ITS for this role had over 30 years of experience in support of university information technology, including executive oversight of similar projects, but involving even larger staffing and budgets. The individual providing these services had managed a staff of up to 450 and a budget of over \$50 million as interim CIO of a major North Carolina research university.

The contractor served as the ITS point person for implementation of the Banner Finance system. He also performed management and oversight work for the ITS Administrative Systems group for which no one then employed at UNCG was qualified, and was a key member of the ITS senior management team dealing with technology infrastructure and other technology projects outside Administrative Systems.

His skills in helping to bridge technical and functional domains are outstanding, and such expertise was not available within ITS for this project. ITS sought not only executive level experience, but also experience in higher education, specifically the UNC System, due to the extensive adaptations required for ERP systems to support North Carolina requirements. The combination of these requirements dramatically limited any possible staffing alternatives. Nonetheless, we agree that the documentation of the specific service need and the unique qualifications of the selected service provider should have been more detailed.

With respect to the compensation under this agreement (\$150/hr for most of the billable hours), quoted rates from staffing agencies for mid-level executive IT support are \$175-\$200/hr *without such specialized domain knowledge*. By way of comparison, consultancy or programming implementation alone (not executive support) from our ERP vendor, Sungard, is discounted to \$180/hr through a volume contract with UNC General Administration. Rates for ERP consultancy for Peoplesoft, Oracle, and SAP cover a wide spectrum, based on skills, and range up to \$250/hr. Contracting for “partner” or CIO-level skills has been estimated at \$500 per hour. Also, given this contractor’s familiarity with North Carolina practices, we believe he achieved far more per hour than would have been accomplished by someone without that experience. Thus, UNCG believes that the hourly rate of this contract was quite reasonable for the extraordinary professional services performed under this agreement. While the agreement ultimately ran for two years, it started with a shorter horizon and was extended due to circumstances that arose during the period of the contractor’s service.

Although this contract, because of its ultimate length and number of hours, wound up incurring significant total costs, it should be kept in mind that large institutions almost always need to use specialized contractors to perform important and complex information technology tasks.

As UNCG has grown and become more complex, contract approval has been delegated to Vice Chancellors for each division; the current policy says, “in general” the Vice Chancellor for Business Affairs will sign off on most contracts, but that has not been the practice for years. In practice, Vice Chancellors have had that authority. UNCG neglected to update its policies accordingly. Contrary to the assertion in Section 1, ITS habitually reviews services contracts with Purchasing, and these reviews will be formalized per the last part of this response.

The finding says “the ITS department appears to have been granted excessive authority and discretion in the use of University and taxpayer funds.” According to GS 116-30.2, appropriations to universities “shall be made in the form of a single sum to each budget code of the institution” and “Special Responsibility Constituent Institutions may transfer appropriations between budget codes.” UNCG is a Special Responsibility Constituent Institution and therefore has the authority to allocate its budget to the best use of

those resources. Our budgets are allocated to departments to be spent, revised, or transferred as needed. We see no discrepancy between this authority and the University's actions. UNCG complied with State law.

The Educational and Technology Fee (E&T Fee) is a student fee. However, universities are required to record and utilize E&T Fee funds as if they were State funds as per the Report and Recommendations of the Board of Governors Special Committee on Student Fees, May 14, 1993, section on E&T Fee: "Revenues generated from the new fee would be deposited into each institution's academic budget code." Even so, ITS always has been conscious of its obligations to the student body to use the E&T Fee to advance technology services of benefit to students. One use of E&T Fee funds is to support the technology infrastructure that students rely on. This contractor played a key role in Banner systems, technology infrastructure, and other technology projects of benefit to students. This was a limited, dedicated purpose, not an ongoing commitment.

As cited above, General Statutes permit UNCG to use funds in the best way possible. UNCG had proper authority to use these funds, and they were expended for a proper purpose.

We agree that a very small amount of expenses questionable for State reimbursement were paid during this contractor's engagement. State funds have been reimbursed for these costs. ITS has implemented a policy of reimbursing at a contractually-specified per diem, until UNCG procedures are in place July 1. If ITS had followed the State's per diem during this contracting relationship, the total amount of expenses reimbursed would have been approximately the same.

Section 3

Your letter cites the North Carolina Administrative Code (01 NCAC 05B .1402), and states that "competitive bidding should be waived only when valid reasons exist to preclude this action." A section of the North Carolina Administrative Code not cited in your letter, however, is (01 NCAC 05B.1401), which says competitive bidding may be waived "where personal or particular professional services are required." As described in more detail elsewhere in this response, the level (and scarcity) of professional expertise necessary to complete this assignment puts this matter squarely within this exception to the competitive bidding requirements. Nevertheless, we understand the importance of always documenting reasons for not competitively bidding contracts. The last part of our response details steps we are taking regarding personal service contracts, including competitive bidding where appropriate.

Section 4

This section relates to a UNCG faculty member who worked part-time for ITS during the academic year 2004-05, and part-time in her academic department. During this period, the total amount she was paid was exactly what she would have been paid if she had worked full-time in her academic department. This faculty member's work had nothing to do with Banner Finance or the other issues discussed in Sections 1-3. A number of clarifications or corrections are needed in this section:

- The position in question is classified as one Exempt from the State's Personnel Act (EPA). As such, a temporary change in responsibilities for an EPA position does not require University EPA HR office approval. The EPA HR office does not require, request, or review job descriptions for interim EPA appointments.
- Interim appointments of an EPA employee are considered a temporary assignment, not an internal transfer. Three interim appointments were made effective Sept 1, 2004 after the Associate Vice Chancellor for Data Services resigned. The duties of the Associate Vice Chancellor for Data Services, the Assistant Vice Chancellor of IT, and the Director of MIS were distributed among the three individuals appointed in order to make sure all job responsibilities of the vacated position were covered by qualified individuals – in addition to the other tasks in those positions.
- A notice of the faculty member's temporary appointment and duties was sent to ITS senior staff on 9/2/04 so that her role would be understood.

- The Affirmative Action Officer (Associate Vice Chancellor for Human Resource Services) approved a Temporary Waiver of Search for the three interim positions and the required appointment documents were filed with and approved by the EPA HR office prior to the appointment, in accordance with University procedures. All three appointees met more than the minimum qualifications for the responsibilities they were given as a result of their appointment.
- The faculty member in question was appointed as an *Interim* Assistant Vice Chancellor for *ITP* (not the Assistant Vice Chancellor for IT) and assumed a portion of the responsibilities of the Associate Vice Chancellor for Data Services position and some additional projects that had not been previously assigned. The faculty member was well qualified for the responsibilities she assumed. The duties of the Assistant Vice Chancellor of IT were assumed by the other two interim appointments. The responsibilities listed in the right-hand column of the Section 4 table are not the responsibilities for which this faculty member was hired.

Process Changes for Personal Services Contracts

UNCG will implement the following procedures regarding personal services contracts:

- UNCG will add a new contract administrator position in the Purchasing Department whose prime responsibility will be to assure appropriate acquisition of services. Requests and requisitions for contracted services, including personal services, will be routed through this new position.
- Contracts and agreements outside of the forms/formats already approved by University Counsel will be submitted to University Counsel for review and formal approval prior to signature by the authorized individual(s) and returned to the purchasing contract administrator position.
- Best purchasing practices will be followed, including seeking competitive bids in most situations, and negotiating best prices in those situations involving appropriately researched/investigated and documented sole source providers and pricing. In order to effectively assess pricing, vendors will be asked to include their expenses in their prices and the contract terms will require the vendors to be responsible for covering their expenses. In those situations where it would not be practical for the vendor to include expenses in the contract, the contract will lay out the terms for expense reimbursement to comply with state policies.
- In those few instances in which contract expenses may be allowed, UNCG's Accounts Payable Department will review and approve the expenses before payment. Expenses that are not within the terms and conditions of the contract, not within the state policies, and/or that are not appropriately documented will not be paid.
- All contracts will be encumbered.
- UNCG's policy will be updated to show that any Vice Chancellor is authorized to approve contracts or document an authorization for others to approve certain contracts. This approval is in addition to the processes indicated above.

In regard to temporary assignments

- UNCG believes the Section 4 recommendations of the OSA Investigations unit would involve unnecessary paperwork for short-term assignments, and additional costs, and thus would be incompatible with our need to be a cost-effective institution.

Thank you for the opportunity to respond to your report.

Sincerely,



Patricia A. Sullivan
Chancellor

AUDITOR'S NOTE

The Office of the State Auditor has carefully reviewed the response to this report from the University of North Carolina at Greensboro (the University). Our Office does not concur with the University's response regarding the use of the Education and Technology Fee (E&T Fee). Our review of the UNC Policy Manual finds the E&T Fee is allowed to cover services used strictly for specialized instructional purposes and not to defray the costs of general academic and administrative operations.