APPENDIX D-2

PROCUREMENT OF CONSULTANT SERVICES

There are several exemptions to the following State regulations for consulting services. These exemptions may apply to academic needs. Accordingly, faculty are advised to discuss prospective consulting needs with the University's Purchasing Department to determine whether the procedures (presented below) for securing consultant services or the procedures for personal service contracts are more appropriate.

CONSULTANT SERVICES

**Definition**
In accordance with State policy, the employment or securing of services of a consultant requires special approval. Services of a consultant of an advisory nature shall mean work or task(s) 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 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.

**Exemptions**
This policy does not apply to contracts for attorneys employed by the State pursuant to the provisions of G.S. 146-17; to contracts for physicians providing direct medical care for the clientele of any State agency or to contracts to provide services without compensation to the provider of the services or to his/her employing agency.

**Justification Required**
It is the policy of the State, that State agencies determine the function for which the consultant is retained cannot be reasonably accomplished by the employees of the agency seeking such services; the use of a consultant is reasonably necessary to the proper operation of the State agency; the estimated cost is reasonable as compared with the likely benefits or results; funds are available for such contract; the contract is in the best interest of the State and all rules and regulations of the Division of Purchase and Contracts have been or will be complied with, all as determined by the Governor or his/her designee and the Division of Purchase and Contracts. In acquiring such service competition shall be sought whenever practicable. No agency of state government may contract for the services of a consultant except in accordance with the provisions of these rules.
Other State Agencies  Whenever possible, consultant services shall be obtained from other State agencies when the services available from other State agencies substantially meet the reasonable specifications of the requesting agency.

Authorization  Before receiving authorization to seek consultant services, the department shall submit to the Purchasing Department written justification for its request. This written justification shall, at a minimum, explain what services the department desires to secure; why the work to be performed by the consultant cannot be reasonably accomplished by employees of the requesting department; how the work to be performed relates to the proper functions of the department; what benefits the department expects to receive from the consultant’s services; what the department estimates the cost of the services sought; what potential sources of consultant services, if any, the department has identified and such additional information as may be required. If the department is requesting authority to contract for consulting services outside of State government, it shall also detail what potential sources of those services exist within the State government and explain why the desired services are not available from those sources. The written justification shall be approved by the Department Head or Dean.

Review  The documents submitted by the department requesting authority to retain consultants will be reviewed by the Purchasing Department and upon approval forwarded to the State Purchase Department and Contract Division for review. Upon completion of this review, the University will be advised, subject to such conditions as may be prescribed by the State to:

1. Canvas additional sources within State government; or

2. Solicit proposals from private contractors, State agencies, or both; or

3. Execute a negotiated contract(s) without competitive proposals; or

4. Abandon the project for being outside the scope of the department's responsibilities or for having insufficient benefit to the State relative to the potential expenditure of funds.

Proposals  Once the University receives approval to solicit proposals for consultant services, the Purchasing Department will proceed with other necessary action in accordance with prescribed policy.
Invalid Contracts

Any contract executed without the approval of appropriate University officials, the State Division of Purchase and Contracts and the Governor or his/her designee shall be void and no State funds shall be expended pursuant to any such contract. Any employee or official of the State of North Carolina who executes a contract without this approval shall be liable to repay any amount expended pursuant to such contract plus court costs.