

§ 114-8.3. Attorney General/General Counsel; review certain contracts.

(a) Except as provided in subsections (b) and (b1) of this section, the Attorney General or the Attorney General's designee shall perform the duties required pursuant to G.S. 143-49(3a) for proposed contracts for contractual services that exceed five million dollars (\$5,000,000). The designee shall confirm that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The designee's review does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "Attorney General's designee" includes any attorney approved by the Attorney General to review contracts as provided in this subsection. The Attorney General shall:

- (1) Establish procedures regarding the review of contracts subject to this section and shall provide any attorney designated under G.S. 143-49(3a) with guidelines to be used in reviewing contracts.
- (2) Advise and assist the Contract Management Section of the Division of Purchase and Contract, Department of Administration, in establishing procedures and guidelines for the review of contracts pursuant to G.S. 143-50.1.

(b) For the constituent institutions of The University of North Carolina, the General Counsel of each institution or the General Counsel's designee shall review all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) to ensure that the proposed contracts are (i) in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable, and (iv) accomplish the intended purposes of the proposed contract. The term "review" as used in this section does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "General Counsel's designee" includes any attorney approved by the General Counsel to review contracts as provided in this subsection. The General Counsel shall establish procedures regarding the review of contracts subject to this section and shall require that any attorney designated under this subsection comply with any procedures established by the Attorney General or the Department of Administration regarding the review of contracts.

(b1) The General Counsel of the Department of State Treasurer or the General Counsel's designee shall review all proposed investment contracts, as defined in subdivision (4) of this subsection, and all proposed contracts for investment-related services entered pursuant to the State Treasurer's authority under G.S. 147-69.3 not constituting consulting contracts, to confirm that the proposed contracts (i) are in proper legal form, (ii) contain all clauses required by North Carolina law, (iii) are legally enforceable to the extent governed by North Carolina law, and (iv) accomplish the intended purposes of the proposed contract. The General Counsel shall establish, in consultation with the Attorney General and the Department of Administration, procedures regarding the review of contracts subject to this subsection. The following terms and requirements apply to contracts under this subsection:

- (1) The term "review" as used in this section does not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract.
- (2) The term "General Counsel's designee" includes any attorney employed or retained by the General Counsel to review contracts as provided in this subsection.
- (3) Any contract for services reviewed pursuant to this subsection must include the signature of the General Counsel or the General Counsel's designee confirming that the Department of State Treasurer has adhered to the

procedures established by the General Counsel regarding the review of the contract. Except for a contract entered into as part of direct trading of bonds, instruments, equity securities, or other approved securities, a contract that has not been signed as required by this subdivision is voidable by the State, and any party or parties to the contract are entitled to receive the value of services rendered prior to the termination of the contract.

- (4) For the purposes of this subsection, "investment contract" means any of the following:
- a. Investments to be acquired, held, or sold, directly or indirectly, by or for the State Treasurer, the Department of State Treasurer, or an investment entity created by the Department of State Treasurer, either on its own behalf or on behalf of another beneficial owner.
 - b. Investments administered by the North Carolina Supplemental Retirement Board of Trustees.

(c) All State agencies, the constituent institutions of The University of North Carolina, or any person who will be entering into a contract on behalf of the State for supplies, materials, printing, equipment, or contractual services that exceeds one million dollars (\$1,000,000) shall notify the Secretary of the Department of Administration or the Secretary's designee of the intent to enter into the contract and provide information as required by the Department for the purposes of maintaining a centralized log of contracts and identifying the location of the contract documents. (2010-194, s. 16; 2011-326, s. 15(p); 2013-234, s. 1.)