SUBJECT: Consulting Contracts

NUMBER: 5:16

1. Purpose

This policy and its procedures set forth the requirements for entering into consulting contracts consistent with South Dakota law, SDBOR Policy 5:3, and University Policy 5:1 and the process for completing such contracts.

2. Definitions

   a. Consultant: an individual or entity legally capable of contracting the delivery of professional or expert advice or personal services.

   b. Consulting Contract: a written contract for consulting services to the University.

3. Policy

   a. The University may utilize consulting contracts to engage an outside entity or individual to provide services to the University where the outside entity or individual expects to receive financial payment for the performance or delivery of said professional service.

   b. All consulting contracts must be prepared in accordance with the provisions of the South Dakota State Auditor, SDBOR Policy 5:3, and University Policy 5:1. Individuals processing consulting contracts must follow these provisions including, but not limited to, signature authority, review and approval of agreements and their terms and conditions by officials and legal counsel, and appropriate compliance with appropriate purchasing rules, retention, and transmittal of contracts.

   c. All consulting contracts must be in the proper format. The standard Consultant or Services Contract shall be used as the base controlling form, and additional clauses may be required due to the nature of services to be obtained. Legal services agreements must be reviewed and approved by University General Counsel.

   d. In conformity with SDCL 1-24A-1 and ARSD 03:05:05:04, consulting contracts shall be filed with the State Auditor’s Office within five (5) days after the contract is entered into.
and finally approved by the contracting parties. The last dated signature on the contract, by either the consultant or the University or SDBOR, shall be defined as that date on which the contract was entered into and finally approved by the contracting parties.

e. Contracts shall be finally approved and executed before any services are rendered to enable the Accounts Payable Office and the State Auditor examination of the contract prior to the commencement of work or service. No advance payment shall be made or authorized for consulting contracts.

f. Consultants are required to maintain the types and amounts of insurance required by the State of South Dakota. Requests for exceptions to these requirements are processed through the Accounts Payable Office before proceeding.

g. Verbal consulting contracts are not authorized, and payment shall not be authorized on verbal contracts.

h. If the contractor is a University employee or a full-time employee of the State of South Dakota, no consulting contract is required. In these cases, payment for services must be made through supplemental payroll procedures and arranged prior to beginning services. Applicable payroll taxes will be deducted. Individuals should contact the Payroll Office for proper forms and procedures.

4. Procedures

a. Departments will initiate the contract by completing the Consultant or Services Contract according to its instructions. The delegated contract signatory will ensure the contract is in compliance with all applicable state, SDBOR, and University contract requirements.

b. If the individual with delegated contract signatory authority determines that legal review is required, the contract will be submitted to University General Counsel, SDBOR General Counsel or both, as appropriate, for legal review.

c. Upon completion of the Consultant or Services Contract, one copy should be retained in the department, and the original should be forwarded to the Accounts Payable Office. The Accounts Payable Office will review the contract, sign as authorized agent, assign a contract number, and forward one (1) copy to the State Auditor. A copy with the contract number will be returned to the originating department.

d. An invoice from the consultant or an email from the hiring department must be submitted to the Accounts Payable Office for payment of contracts when services have been rendered. Individuals should include the contract number and Banner ID number, indicate whether it is a final payment, and a statement that the appropriate phase or total contract has been satisfactorily completed.

5. Responsible Administrator

The Vice President for Finance and Business, or designee, is responsible for the annual and ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy.

SOURCE: Approved by President on 04/03/2015.