



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

R. Scott Ralls, President

October 17, 2008

MEMORANDUM

TO: Presidents
Business Officers

FROM: Kennon D. Briggs

SUBJECT: Promotional Items and "Give Aways" Purchased with State Funds

On August 5, 2008, a staff member from the System Office sent an e-mail to college Information Officers which stated in part "as of July 1, 2007 you can no longer use state funds to purchase 'give-away' items. Needless to say, this created angst and consternation among both community college Presidents and Chief Financial Officers. I was made aware of this written communication on August 7, and immediately began receiving inquiries from college officials seeking clarity about what could and could not be purchased with state funds. After some lengthy and consultative research, I have obtained that clarity. It is the purpose of this communication to provide guidance to colleges about the use of state funds to purchase promotional and 'give away' items.

When the community college General Statutes (115D) or the North Carolina Administrative Code (23 NCAC) are both silent about whether or not an activity is permissible, the System Office generally and the Division of Business and Finance specifically turn to the Office of State Budget & Management (OSBM) for clarification with respect to the use of state funds. The basis for seeking the OSBM's clarification is based upon General Statute 115D-4, which states in part "The expenditure of any state funds at any institution herein authorized to be approved by the State Board shall be subject to the State Budget Act unless specifically otherwise provided in this Chapter." As such, the final authority in deciding questions which arise about the expenditure of funds is the OSBM .

In 2004, the OSBM conducted a study of the cost of "State Funded Advertising" and public relations as it related to state funds.¹ The study examined the appropriate uses of state funds related to advertising, employment, public service announcements, admissions, expenditure of funds therefore, and similar activities. The study found that \$28.9 million in total expenditures were made in FY 2003-04, of which \$19.3 million was from the General Fund (state funds) and the remainder (\$9.6 million) were made

¹ Office of State Budget & Management. "Study of State-Funded Advertising." Directed by Section 19.3 of Session Law 2004-124. December 31, 2004.

CC08-229 (Email)

from Special Funds. The study recommended that the “decisions for the development and procurement of advertisements and PSA’s should be left in the hands of state agencies”.²

In effect, the OSBM determined that the use of state funds for advertisement of state agencies functions, purposes and services is consistent with law, and the decisions thereabout should be left with the agencies. The mission and purpose of a community college, per General Statute 115D-1, is to provide public higher education. As such, the advertisement of the availability thereof, through both purchased advertising and PSA’s, and the employment opportunities available at a community college to the citizens of North Carolina is a permissible use of state funds.

Effective July 1, 2007³, the North Carolina General Assembly approved a new “State Budget Act.” The Act provided new guidance to the Governor and the OSBM in the administration of the budget adopted by the General Assembly. In turn, the OSBM amended the “State Budget Manual” (Budget Manual) which, not unlike the “Accounting Procedures Manual” for the NCCCS, provides guidance in the use of state and other funds. The revised Budget Manual provides guidance about the use of state funds for promotional or “give-away” items that is different from the use of funds for advertisement.

The sections of the Budget Manual that are relevant to the use of state funds for promotional or ‘give away’ items are sections 4.10, 5.8.3 and 5.8.5. There have been changes to each section from previous editions which clarify the use of state funds with respect to these two activities. In Section 4.10, with respect to advertising and marketing costs, “State funds may be used to purchase advertising space or marketing materials provided those funds have been appropriated or received for that purpose”. While the North Carolina General Assembly has not specifically appropriated funds for these purposes, the use of state funds for these purposes are consistent with the December 2004 OSBM study, and are consistent with the educational mission and purpose of a community college. The lingering question; however; is how strictly “marketing materials” are defined with regard to their purchase from state funds?

Section 5.8.5 of the Budget Manual speaks to the question of how strictly marketing materials are defined. While one could make the argument that marketing materials includes promotional or “give away” items, the language in the Budget Manual makes clear that state funds may not be used for this purpose, to wit: “A department cannot use state funds to provide promotional or gift items to be distributed at the conference”.⁴ While the context in which the prohibition is established is “Internal Conferences”, it is

² “Study of State-Funded Advertising. P. 6.

³ Session Laws 2006-203

⁴ Office of State Budget & Management. “State of North Carolina Budget Manual”. July 1, 2007. P.149.

clear that the intent is that this activity is not permissible from state funds, e.g., that promotional and “give away” items can’t be purchased with state funds.

Section 5.8.3 of the Budget Manual provides for redundant clarification to the prohibition cited in 5.8.5. here, the language states clearly (again, in the context of External Conferences) “Registration Fees may not include cost of entertainment, alcoholic beverages, setups, or flowers, and/or promotional (gift) items”.⁵

In order to remove all doubt about the use of state funds to purchase promotional and “give away” items, on August 20, 2008, I requested that the OSBM provide written guidance. In an August 27, 2008 response, Assistant State Budget Officer Elizabeth Grovenstein provided the following guidance:

1. “Advertising and marketing costs may be paid from state funds, within certain guidelines. Section 4.10 of the *State Budget Manual* provides: “State funds may be used to purchase advertising space or marketing materials provided those funds have been appropriated or received for that purpose.” This policy complies with G.S.§143C-6-7 which restricts expenditures of state funds by a state agency to be made “in compliance with State budget as enacted by the General Assembly and certified by the Director” of the Budget”.
2. “While state funds may be used to increase public awareness of the agency or community college, the *State Budget Manual* (sections 5.8.3 and 5.8.5) does specify that state funds should not be used to purchase promotional or “giveaway” items. Such items are those of greater than nominal value and do not serve an instructional or institutional purpose”.

Items that serve “an instructional or institutional purpose” are those used for classroom instruction and daily, routine operations of the college. A challenge is to define what the term “nominal value” means. In the eyes of some, this could be defined as items \$25 or less. In the eyes of others, the value is far less. What is clear, however, is that “state funds should not be used to purchase promotional or ‘giveaway’ items.” It seems prudent to not purchase any promotional or give-away items from state funds.

The obvious question then left on the table is: “From what source can these kinds of items be purchased”? Consistent with the findings of the 2004 OSBM study, and citations within the Accounting Procedures Manual, “Special Funds” are permissible sources. In the NCCCS this would be defined as “Institutional Funds”. Permissible sources among the classes of Institutional Funds would be:

- Vending Funds
- Balances remaining from “Self-supported” or “Receipt-supported” classes

⁵ OSBM Manual. P.148.

Presidents
Business Officers
Page 4
October 17, 2008

- Foundation contributions to the college, or the purchase of these items from Foundation funds

Caution should be used in the use of Bookstore profits, Overhead Receipts, or optional fees (Computer Use and Technology, Course, Student Activity or Parking fees) as there is no specific State Board of Community Colleges approval for the use of these sources for the purchase of promotional or “give-away” items. Language that the State Board has adopted for these funding sources tie the use of these funds to a direct benefit to (current) students, to the source which generated the funds, or for purposes for which the fee was charged. In no place is it suggested that promotional or “give-away” items meet the three tests noted above. There is no intent to limit a college’s flexibility in the use of non-state funds, but it should be noted that the System Office would be unable to explain or defend the use of the Institutional Funds where caution has been given.

It is unfortunate that it has taken so long to seek, obtain and communicate the clarity that colleges need with respect to the use of state funds to purchase promotional and ‘give away’ items. Please accept my apology for the time it has taken me to research and provide written guidance to you. What has also been made clear in this process however is that colleges may use state funds related to advertising, employment, public service announcements, and admission consistent with the educational mission and purpose of the college but may not use state funds for “give away items.”

KDB/sth

c: Public Information Officers

CC08-229
Email