

1-11-08

The University of North Carolina  
ERSKINE B. BOWLES, President

David -

I'd like to talk to you  
ABOUT the attached. I just  
plain don't get the logic behind  
the hold up. Previous funds to CARENC  
has been approved by both the STATE  
Budget Office & the State Auditor. The  
Auditor & Treasurer office have both  
OK'd this transaction & did you



Mr. David McCoy  
State Budget Officer  
Office of State Budget Management  
20320 Mail Service Center  
Raleigh, NC 27699-0320

to ~~be~~ previously. It's costing the  
STATE a lot of money to hold  
this process up. Information is  
killing us alive.

I want to visit with you  
on this at your earliest convenience.

Thank you

Emily  
CML



Mr. David McCoy  
State Budget Officer  
Office of State Budget Management  
20320 Mail Service Center  
Raleigh, NC 27699-0320

# MEMO

To: Reade Taylor  
From: John R. Merrill  
Date: January 10, 2008  
Re: Funding Delays for Two Buildings at Gateway

Since the inception of Gateway, it has been our intent for Gateway University Research Park, Inc. (hereinafter "Gateway"), a 501(c)3 organization controlled by NC A&T State University and UNCG, to perform all construction for both the North and South Campuses. This intention is clearly indicated in the language of the Management Services and Development Agreement (MSDA) and the Ground Lease. In order to make this happen, it is necessary to have a mechanism for transferring capital funds from the State of North Carolina (and/or the Universities) to Gateway, regardless of the funds' original source.

As background, funds from operating and maintenance appropriations received by either University are paid to Gateway as a "fee for services" as outlined and agreed to in the MSDA. On the capital improvement side, to date, Gateway has been granted a total of \$6 million in capital appropriations from the Universities which has been used for North Campus renovations and South Campus master planning and infrastructure construction – consistent with the legislation that authorized the appropriation. In fact, the actual language of the legislation is used in the grant documentation for clarity. This process was previously approved by representatives of both the Office of the State Auditor and the Office of State Budget prior to any funds changing hands.

The current funding issue surrounds the statutory-approved COPs (Certificates of Participation) intended to construct the approximately 100,000 square foot Joint School of Nanoscience and Nanoengineering (JSNN) building, and the approximately 40,000 square foot Interdisciplinary Research Facility. The projects are budgeted at \$58 million (\$53 million in COPs and \$5 million as an appropriation) and \$10 million, respectively. In order to facilitate the design and construction of these two buildings as efficiently as possible, we have recommended using the same grant mechanism discussed in the paragraph above as the methodology for providing the funds to Gateway, relying on heavy involvement from the Universities and closely following the terms of the ground lease. We have discussed this process with a representative in the State Treasurer's Office (and Bond Counsel for the State Treasurer) and he indicated no problem with the grant process. We have also discussed this with the Office of the State Auditor and they are also willing to accept the grant process. In fact, we had a discussion with individuals from the Office of State Budget and they indicated the grant process would be acceptable although this was subsequently withdrawn by Mr. David McCoy, State Budget Director through a telephone call from Mr. Jim Lora, Assistant State Budget Officer, to you.

We believe part of the issue with Mr. McCoy stems from a very strict interpretation of the legislation authorizing the funds. It is our understanding that Mr. McCoy's interpretation is that the language authorizing the funding does not clearly indicate that it is the intent that these funds be provided to Gateway for the construction of the JSNN facility or the Interdisciplinary Research Facility. He also has a concern granting the funds to Gateway due to the fact that the funding source for the two facilities is COPs. I have copied below the language from the legislation.

Please let me know if I can provide further information that will help allow us to move forward on these two important facilities. We are approaching two years in June since the \$10,000,000 was authorized.

*Legislative Funding for the Joint School of Nanoscience and Nanoengineering Building:*

**House Bill 1473 (Session Law 2007-323) :**

**CAPITAL APPROPRIATIONS/GENERAL FUND**

**SECTION 29.2** There is appropriated from the General Fund for the 2007-2008 fiscal year the following amount for capital improvements:

<b>Capital Improvements – General Fund</b>	<b>2007-2008</b>
Millennium Campus – Nanoscience and Nanoengineering Building	5,000,000

**SPECIAL INDEBTEDNESS PROJECTS**

**SECTION 29.13.(a)** The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the capital facility costs of the projects described in this subsection. In accordance with G.S. 142-83, this subsection authorizes the issuance or incurrence of special indebtedness:

- (12) In the maximum aggregate principal amount of fifty-three million dollars (\$53,000,000) to finance the capital facility costs of completing a Nanoscience Building to be used jointly by the University of North Carolina at Greensboro and North Carolina Agricultural and Technical State University. No more than a maximum aggregate amount of twenty-five million dollars (\$25,000,000) of special indebtedness may be issued or incurred under this subdivision prior to July 1, 2009.

*Legislative Funding for the Interdisciplinary Research Facility:*

**Senate Bill 1809 (Session Law 2006-146) :**

**PART II. REVISE UNIVERSITY SPECIAL INDEBTEDNESS**

**SECTION 2.1.** Section 1.1 of S.L. 2004-179, as amended by Section 30.3A of S.L. 2005-276, reads as rewritten:

"**SECTION 1.1.** In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of the following projects. The table below provides the maximum principal amounts. The first column is the aggregate maximum principal amount. The second column is the maximum portion of this amount that can be issued or incurred before July 1, 2005. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

<b>Aggregate Maximum</b>	<b>Maximum before 7/1/05</b>
------------------------------	----------------------------------

\$10,000,000	10,000,000
--------------	------------

<b>Project</b>
----------------

Land-acquisition, siteSite preparation, and engineering, architectural, and other consulting services for facilities for development of theservices, and the construction of a research building on the joint Millennial Campus of North Carolina Agricultural and Technical State University and the University of North Carolina at Greensboro.
---