Genesee Community College

Procurement, Cash Disbursements and College President's Compensation

OCTOBER 2019

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Contents

Report Highlights

Genesee Community College

Audit Objective

Determine whether:

- Goods and services were procured in a manner consistent with the procurement policy.
- Cash disbursements were properly supported and approved.
- The President's salary and benefits were in accordance with his employment contract.

Key Findings

- Officials could not demonstrate that they complied with competitive bidding statutes when awarding two contracts totaling $549,000 and did not seek competition as required by the procurement policy for five professional service contracts totaling $2.8 million and nine purchases totaling $125,000.
- The Board has not sufficiently segregated cash disbursement duties and has not established adequate compensating controls such as an independent claims audit function.
- The President received approximately $142,000 in monetary benefits over six years that were not clearly stated by his employment contract.

Key Recommendations

- Require the purchasing agent to monitor compliance with the procurement policy and statutory bidding requirements.
- Ensure cash disbursement duties are adequately segregated and/or adequate compensating controls are in place.
- Clearly document all Board-approved compensation and benefits in the President's employment contract.

College officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on issues raised in the College's response.

Background

SUNY GCC/Genesee Community College (College) is governed by a Board of Trustees (Board) composed of nine appointed members and one elected student trustee. The Board is responsible for establishing and monitoring compliance with policies governing the College's financial and educational affairs.

The President of the College (President) is the College's chief executive officer and is responsible, along with other administrative staff, for day-to-day management in accordance with policies established by the Board and the State University of New York (SUNY). The Executive Vice President of Finance and Operations is the chief financial officer (CFO) and is responsible for the administration and supervision of financial activities. The CFO is also the Board's designated purchasing agent responsible for overseeing the procurement process.

Quick Facts	
2017-18 Budgeted Appropriations	$40.9 million
Purchases	$13.8 million
Non-Payroll Disbursements	$15.8 million
President's 2017-18 Compensation	~$354,000

Audit Period

September 1, 2017 – February 19, 2019. We expanded our audit scope period to September 2013 to review the President's compensation and benefits.

Procurement

How Should Officials Procure Goods and Services?

New York State General Municipal Law[1] (GML) generally requires local governments[2] to solicit competitive bids for purchase contracts that aggregate to more than $20,000 and contracts for public work that aggregate to more than $35,000. GML[3] also requires boards to adopt written policies and procedures for procuring goods and services, such as professional services, that are not required by law to be competitively bid. Competition helps ensure that quality goods and services are obtained at a reasonable cost and avoids the appearance of favoritism or impropriety.

Written procurement policies and procedures provide guidance to employees involved in the purchasing process and help ensure that competition is sought in a reasonable and cost-effective manner. These policies and procedures should indicate when officials must obtain competition, outline procedures for determining the competitive method that will be used and describe the documentation requirements and responsibilities. Competitive methods could include issuing a request for proposals (RFP) or obtaining written and verbal quotes. The purchasing agent should monitor compliance with these policies and procedures and ensure officials have obtained the appropriate number of quotes prior to approving purchases.

The Board adopted a written policy for the procurement of goods and services not subject to competitive bidding requirements. The policy requires officials to obtain three written quotes for all purchases greater than $3,000 but less than $20,000 and to use a written RFP when procuring professional services. The policy also requires that purchasers retain documentation to demonstrate the efforts made to obtain quotes and/or the rationale for not obtaining competitive quotes.

In lieu of obtaining quotes, proposals or bids, College officials can choose to purchase goods and services off New York State contracts. This allows the College to benefit from the competitive process already undertaken by the State. However, when procuring goods and services through State contracts, officials are responsible for ensuring that the prices paid are in accordance with those contracts.

Competitive Bids Were Not Always Obtained

We reviewed purchases from 10 vendors[4] totaling $891,000 that were subject to competitive bidding requirements and found that officials could not demonstrate

1 New York State General Municipal Law (GML) Section 103

2 Based on case law, we have interpreted that community colleges are subject to GML Section 103.

3 GML Section 104(b)

4 Refer to Appendix C for information on our sampling methodology.

that they complied with the competitive bidding statutes when awarding two contracts totaling $549,000: one contract for public work for $526,000 to an out-of-state vendor for a partial roof replacement, and a purchase contract for printing materials and services totaling $23,000.

GML sets forth an exception to competitive bidding for the purchase of apparatus, materials, equipment and supplies, and services related to the installation, maintenance or repair of those items, provided certain prerequisites are met (often referred to as “piggybacking”).[5] The roof replacement contract was procured by the College through the use of a governmental “group purchasing organization” (GPO), which according to College officials, were of the opinion qualified under this exception. However, officials could not demonstrate that they had performed an analysis to determine whether piggybacking was cost effective or that they adequately reviewed the GPO’s contract to ensure it was properly bid and awarded in a manner consistent with the exception set forth in GML. Further, officials did not obtain or review copies of the contract, proposal specifications or proposals/quotes. Therefore, it is unclear whether the exception set forth in GML was applicable here.[6]

We found that the vendor was awarded a contract through a GPO and a county located in Georgia, but could not determine the competitive methods used to let the contract. Additionally, it appeared that the vendor who was awarded the contract sublet the contract to a local vendor after obtaining written quotes from two local roofing contractors without using a competitive bidding process or sealed bids. We also noted that the pricing quoted by the vendor was based on national pricing averages for labor and materials and excluded prevailing wage rates which are generally required for public works contracts in New York State. Additionally, in this instance the vendor acted as a broker whose fee was incorporated within the contract price. College officials also did not perform any type of cost savings analysis to help determine whether the use of the GPO contract would be cost effective (e.g., an analysis comparing national price averages to local rates). Under these circumstances, we question whether the College may have been able to complete the project at a lower cost had the College initiated its own competitive bidding process.

---

5 GML authorizes, as an exception to competitive bidding, political subdivisions to purchase apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair of those items, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein. For the exception to apply, certain prerequisites must be met, including: (1) the contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein; (2) the contract must have been made available for use by the other governmental entity and (3) the contract must have been let to the lowest responsible bidder or on the basis of best value in a manner consistent with GML Section 103 (see, GML Section 103[16]). For additional details relating to this exception, see the Piggybacking Law bulletin on our website at https://www.osc.state.ny.us/localgov/pubs/piggybackinglaw.pdf

6 For purposes of this report, the legal propriety of the contract, including whether each of the prerequisites were met, was outside the scope of our audit.

College officials procured the printing materials contract from a supplier price listing from several vendors, but the quotes were obtained in 2005. Although the quotes were no longer current, officials used the outdated list to compare vendors and award the contract without competitive bidding.

When College officials do not have evidence that they satisfied the bidding requirements for public works and/or purchase contracts, they have less assurance those goods and services were procured in a manner to help ensure the most prudent and economical use of public money at the lowest possible cost. Further, officials may not be complying with statutory requirements.

Professional Services Were Not Always Procured in a Competitive Manner

We reviewed the procurement of 11 professional service contracts totaling $3 million and found that the College did not use an RFP as required by the College's procurement policy for five contracts totaling approximately $2.8 million.

For four professional service contracts totaling $235,000, officials were unable to locate RFP documentation and were not sure whether RFPs had been issued. The fifth service provider had a contract with a value totaling more than $2 million per year for information technology (IT) support services such as network management, website support and technical assistance to users of the College's financial and student information systems. During 2017-18, the provider was paid over $2.6 million. According to officials, the College has contracted with the provider for IT support services for more than 30 years and has never sought competition or issued RFPs for these services. Officials told us that they did not think there were any other service providers capable of meeting the College's IT needs.

We found that IT services could be procured from the same provider through a SUNY contract open to community colleges. Additionally, officials told us that they conduct an informal review and prepare a cost-benefit analysis prior to renewing the contract every few years. However, they could not provide documentation to demonstrate that they conducted a review or what factors they considered during their cost-benefit analysis.

The President and CFO told us that they consulted with other community colleges to ensure they were paying reasonable prices for these services. They also told us that they had considered employing IT specialists to provide some of these services in-house rather than contracting for them but they had determined doing so would be too costly. However, they could not provide documentation to support this conclusion.

Because officials have not attempted to procure IT support services from any other source and have not documented a thorough cost-benefit analysis, the College may have difficulty effectively negotiating with this vendor and does not have assurance it is receiving the appropriate services at the best cost. A cost-benefit analysis will help officials make an informed decision as to whether engaging a new provider, splitting the contract between different providers, or conducting some of the services in-house helps ensure the most prudent use of public funds.

When competitive methods are not used to procure professional services, there is an increased risk the College will pay more than necessary for services or that decisions were influenced by favoritism.

Quotes Were Not Always Obtained

We reviewed purchases from 15 vendors with contracts totaling $196,000 for purchases that were below the competitive bidding thresholds to determine whether quotes were obtained as required by the College's procurement policy. All purchases were for appropriate College purposes. However, nine purchases totaling $125,000 did not include adequate documentation demonstrating the purchaser's efforts to obtain the number of written quotes as required by the procurement policy.

For example, six purchases totaling $62,000 were made without evidence that officials obtained written quotes as required by the policy or sought comparative pricing. The CFO and department heads told us that they had obtained comparative pricing but did not retain documentation as required by the policy. Without such documentation, officials cannot demonstrate to us or the purchasing agent that they had sought competition prior to purchase as required by the policy or that they obtained the best value.

We conducted Internet searches to determine whether officials could have achieved cost savings by competitively purchasing items. While we were unable to find comparable prices for most of the purchases due to fluctuations in market prices over time, we found comparable prices for one purchase. The College bought some medical equipment for a total of $8,600, but we found the same equipment from a different vendor at a lower price of $5,800, for potential cost savings of $2,800.

Officials also made purchases totaling more than $47,000 from State contract vendors under the assumption that they were making purchases off State contract and were being charged the appropriate pricing. However, in two instances, the College was paying more than State contract pricing or was not purchasing off a valid State contract. In one instance, the College was purchasing fuel from a State contract vendor, but it paid more than State contract prices. For the period September 1, 2017 through December 12, 2018, the College paid $28,600 for fuel, which was approximately $4,000 more than it would have paid had it obtained State contract prices. In the other instance, officials purchased a laundry machine for $19,000 in September 2017 under the assumption they were purchasing off a State contract. However, the contract had expired in 2014.

College officials told us that they do not verify the pricing to ensure the vendor is charging the State contract price prior to making purchases or payment. However, by not verifying that State contract pricing is obtained or ensuring contracts are current, there is an increased risk the College could overpay.

What Do We Recommend?

The Board should:

1. Require the purchasing agent to monitor compliance with the procurement policy and GML bidding requirements.

College officials should:

2. Solicit competition by obtaining competitive bids as required by GML and RFPs for professional services and the appropriate number of quotes for purchases as required by the procurement policy.

3. Ensure that appropriate supporting documentation, such as quotes, are retained and available for review.

4. In accordance with the College's procurement policy, issue an RFP in the future for IT support services and prepare a written cost-benefit analysis that fully considers all suitable options, and report results to the Board for its consideration.

5. Review documentation to verify that they have obtained State contract pricing and are purchasing off a valid State contract.

Cash Disbursements

How Should the Board Ensure Disbursements Are Proper and Supported?

The board and college management are responsible for establishing and implementing effective cash disbursement policies and procedures to help ensure disbursements are supported by appropriate documentation and for legitimate college purposes.

Cash disbursement duties should be segregated so that no one individual controls most or all phases of a cash disbursement transaction. The authority to approve purchases, prepare checks, audit claims and approve them for payment should be segregated and performed by different individuals. When it is neither practical nor cost effective to segregate duties, the board must ensure compensating controls, such as an adequate claims audit function, are in place. An effective claims audit function decreases the risk that errors and irregularities may occur and not be detected and corrected, and that unauthorized payments could be made for non-college purposes.

The Board Has Not Segregated Duties or Established Adequate Compensating Controls

The Board has not sufficiently segregated cash disbursement duties and has not established adequate compensating controls, such as an independent claims audit function or designating an individual to help ensure claims for payment are proper expenditures and supported by sufficient documentation.

Generally, all purchasing and spending decisions are made by individual department heads who initiate and approve purchases. Department heads are also responsible for acknowledging the receipt of goods and services prior to requesting payment. Further, the CFO is responsible for approving all claims for payment and signing checks. The CFO approves all requests for payment after performing a cursory review but does not perform a deliberate and thorough claims audit. The CFO's review consists of primarily ensuring sufficient funds remain in the department's budget and the appropriate department head approved the invoice for payment. By allowing department heads to approve purchases and receive goods and services and allowing the CFO to both approve claims and sign checks, there is an increased risk that improper or fictitious purchases could be made and not detected.

We reviewed 47 claims[7] totaling approximately $2.6 million and found that they were generally supported by sufficient documentation and for appropriate College purposes. However, because duties are not adequately segregated, the former CFO was able to make two payments for purchases totaling more than $1 million

7 Refer to Appendix C for information on our sampling methodology.

without the involvement of any other College official by authorizing the purchases, approving the invoices for payment and signing the checks.[8] Further, one of these vendors was paid $526,000 for a partial roof replacement prior to the College receiving the services.

The former CFO initiated and approved a request for payment to the vendor 13 days before signing the contract and more than three months prior to the roof project being completed. The former CFO paid the entire contract amount at once, even though the contract allowed for progress payments based on the percentage of work completed. The contract also allowed the College to retain 5 percent from each payment as a form of security for proper completion of the work.

College officials told us that they were not sure why the former CFO paid the contractor prior to services being rendered. However, they said this was during a transitionary period with turnover occurring in the Director of Buildings and Grounds position, which would have normally been responsible for overseeing this type of project and initiating a request for payment.

Although the roof project was completed and services were rendered as contracted, paying the contractor up front increases risk that the College could pay for goods and services not received. While the payments reviewed were for appropriate College purposes and supported by adequate documentation, segregating check signing from the approval of claims prevents an official (or employees under his or her control) from making improper purchases, approving them for payment, and then preparing the checks to pay for such purchases without being detected. An effective independent claims audit can help mitigate these risks.

What Do We Recommend?

The Board and College officials should:

6. Segregate key duties including preparing and signing checks, authorizing purchases and approving claims for payment.
7. Establish an adequate, independent claims audit function or designate an appropriate official to conduct a thorough and deliberate audit of claims prior to payment.
8. Ensure goods and services are received prior to payment.

8 One claim for roof replacement for $526,000 and another for parking lot repairs/construction for $499,000

President’s Compensation

How Should the Board Ensure That the President Is Properly Compensated?

The board should authorize and approve the president’s compensation and benefits and clearly document this authorization in writing by resolution, employment contract or in a policy document approved by resolution. The terms approved regarding the president’s compensation should be written with clear and precise language so that the parties’ intentions can be easily determined. Such documentation communicates the board’s intent to the administrators and employees who must execute the procedures and provides transparency to the public and other interested stakeholders.

Certain Compensation Was Not Clearly Stated by Written Documentation

We reviewed all salary payments and benefits provided to the President during the six-year period beginning September 2013. We found that, from September 2013 through January 2019, the President received approximately $142,000 in monetary benefits associated with a housing allowance that were not clearly stated by the terms of his written employment contract and/or amendments to the agreement.[9]

This additional benefit was provided in the form of extra tax withholding payments made by the College on behalf of the President directly to taxing authorities. For example, during the 2017-18 fiscal year, the President received a $30,000 housing allowance, but the College paid nearly $57,000 in total for this benefit: $30,000 in the form of direct deposit to the President and $27,000 to taxing authorities to cover the President’s related income tax liability. The College made similar payments directly to taxing authorities on the President’s behalf averaging approximately $23,700 a year over the past six years.

College officials referred to these payments as “grossing up” the President’s taxable fringe benefits and told us they were provided so that the President’s net take home pay would be equal to the amounts listed in his contract.[10] College officials told us the same benefit was provided to the previous College President, and the Board President told us it was the Board’s intention to provide the current President with this benefit. Although the previous President’s contract was amended in 1995 by a Board-approved written memorandum that indicated the College would assume the tax responsibility for all fringe benefits that are reported as taxable income, we found no written authorization clearly

9 The President’s employment agreement was initially for the period August 1, 2011 through August 31, 2014. The employment agreement, however, has subsequently been amended on several occasions and is presently extended through August 31, 2022.

10 We note that for purposes of this report, we are not rendering an opinion as to federal or State tax implications, if any, associated with this practice.

extending this benefit to the current President other than language set forth in an amendment to the current President's employment agreement stating that the College would provide the President a housing allowance "in accordance with past practice" and provided a specific dollar amount for each fiscal year.

Although the Board may have intended for the College to assume financial responsibility for the President's income tax liability, this significant financial benefit was not clearly stated in the Board minutes or in a written employment agreement that could be made available to the public, if requested. Providing the President with compensation or benefits not clearly described in his contract undermines the transparency of the College's financial operations. The College is a publicly-funded institution. As such, the College's financial operations, including the salaries and compensation provided to employees, should be transparent and available to all stakeholders, including the taxpayers that fund its operations.

Business Expense Reimbursement Payments Were Not Properly Supported or Reported

The President received $7,000 to $9,000 each year for "miscellaneous expenses" and membership dues. The payments were paid as annual lump sums through the College's accounts payable system and were not supported by documentation such as receipts or a schedule detailing the expenses incurred.

Although the President's employment contract provides for such "miscellaneous expenses" and does not require that the President submit supporting documentation to receive payment, if the payments were for travel or other necessary business expenses, such expenses may qualify as taxable income when the employee is not required to substantiate those expenses to the employer and/or is not required to return unused amounts. Further, the employment contract states that the use of these funds are within the President's sole discretion and up to $2,000 could be used to purchase additional insurance coverage.[11] As such, we question whether such payments qualify as a form of additional compensation, rather than an expense reimbursement. However, College officials did not report the payments, which have totaled $50,000 since September 2013, as income and did not deduct withholding taxes.

Officials told us that they considered the payments expense reimbursements and were not aware of the potential tax implications and requirements created by the manner in which the payments were provided to the President.

11 We note that the employment agreement, dated December 1, 2013, states that the $2,000 amount may be used for the purchase of additional life insurance coverage. Amendments to the agreement in both 2013 and 2016 state that the $2,000 amount may be used for the purchase of additional insurance coverage.

What Do We Recommend?

The Board should:

9. Ensure all compensation and benefits provided to the President are clearly defined in his employment contract or by Board resolution.

10. Consult with legal counsel to review the benefits provided to the President to help ensure such payments are being made in accordance with the agreed upon terms of the parties.

11. Review applicable tax guidance and/or consult with tax counsel to address whether the College, in the past, under-reported payroll and income tax liabilities for the unsubstantiated expense reimbursement payments and to ensure such payments are reported correctly in the future.

Appendix A: Response From College Officials

SUNY GCC
Genesee Community College
Office of the President
One College Road
Batavia, NY 14020-9704
Phone: (585) 345-6812
Fax: (585) 343-4541
www.genesee.edu

September 18, 2019

Office of New York State Comptroller
Attn: Jeffrey Mazula, Chief Examiner
295 Main Street
Suite 1032
Buffalo, New York 14203-2510

Dear Mr. Mazula,

This letter is in response to the Office of the State Comptroller (OSC) Report of Examination relating to Genesee Community College and its' procurement process, cash disbursements, and the President's compensation. The College has received the report and will begin the process of reviewing the recommendations so as to develop a Corrective Action Plan in accordance with OSC guidelines. Below you will find the College's initial comments concerning each of the recommendations:

Procurements – Goods and Services

1. ***Require the purchasing agent to monitor compliance with the procurement policy and GML bidding requirements.***

The Board of Trustees and College administration is in the process of reviewing its' procurement policies and Procedures to insure full compliance with General Municipal Law.

2. ***Solicit competitive bids for purchase contracts that aggregate to more than $20,000 and contracts for public work that aggregate to more than $35,000.***

3. ***Ensure that appropriate supporting documentation, such as quotes are retained and available for review.***

With regard to comments made by the auditors concerning insufficient supporting documentation for the purchase of goods and services, the College is in the process of reviewing its' procurement procedure and policies to insure full compliance with General Municipal Law.

With regard to the "piggybacking" exception set forth by General Municipal Law, as stated in the examination report on page 5, "it is unclear whether the exception set forth in GML was applicable here." Given the uncertainty noted by the Office of State Comptrollers audit team, it is the College's position that it is inappropriate to note this in the report when even the auditors are uncertain as to the matter at hand. The College proceeded in good faith in utilizing the "piggybacking" exception based on the pricing information available at the time.

See Note 1 Page 15

4. ***In accordance with the College's procurement policy, issue an RFP in the future for IT support services and prepare a written cost-benefit analysis that fully considers all suitable options, and report results to the Board for its consideration.***

With regard to comments concerning the College's IT Contract service provider, the College will be doing a request for proposal for IT services prior to the conclusion of the current contract which ends in June 2021.

5. ***Review documentation to verify that they have obtained State contract pricing and are purchasing off a valid State contract.***

With regard to comments concerning purchases made using State contract pricing, the College is in the process of reviewing its' procurement procedure and policies to insure full compliance with General Municipal Law.

Cash Disbursements

6. ***Segregate key duties including preparing and signing checks, authorizing purchases and approving claims for payment.***

Although the CFO is the signer on the checks, he does not enter the payables into the computer system, print the checks, nor control the physical disposition of the checks. Our bank's Positive Pay feature ensures that any checks cleared by our bank agree to the file of checks sent by the College. If a mismatch is discovered, an email alert is sent to various personnel in the Business Office to research and either approve or deny payment. Any misappropriation of funds would require the collusion of the accounts payable clerk, the CFO and the Controller. We believe that sufficient mitigating controls are in place to offset the risks. Having stated this, the College will review existing procedures to determine if additional safeguards can be added.

See
Note 2
Page 15

7. ***Establish an adequate, independent claims audit function or designate an appropriate official to conduct a thorough and deliberate audit of claims prior to payment.***

Once the departmental budget manager reviews and approves an invoice for payment, all invoices are routed to the Business Office, entered into the Banner system, and then routed through electronic approval queues. The funneling of invoices to this one office for entry is intentional. We have a knowledgeable, dedicated accounts payable clerk with 20+ years of experience. She is reviewing the packets to make sure that the expenditure is appropriate, properly supported and has been reviewed and signed off on by the appropriate personnel prior to entry. Anything that is incomplete is returned to the budget manager. Anything that is questionable is brought to the attention of the Controller or CFO for further attention. She is, in essence, performing the claims audit function. The effectiveness of this is proven by the fact that no inappropriate or unsupported claims were found by the OSC audit.

See
Note 3
Page 15

In addition, throughout the electronic approval process, approvers will question items that are unfamiliar, or that they suspect may be inaccurate or inappropriate. The CFO, similarly, will often review the documentation for non-routine expenditures. The College has considered adding a position to review every claim voucher and has determined that the additional costs would outweigh any resulting benefits.

8. ***Ensure goods and services are received prior to payment.***

When requesting that a check be processed, the budget manager signs off that, "The above services or materials were rendered or furnished to the College on the dates stated and charges are correct." Checks are only processed from invoices, never from quotes or estimates. With the notable exception of the roof repair, we are not aware of any other payments that were processed prior to the delivery of goods and/or services. We believe this was an isolated instance As noted previously, the Board of Trustees and College Administration is in the process of reviewing its' procurement policies and procedures which will include ensuring the receipt of goods and services prior to payment being made.

President's Compensation

9. *Ensure all compensation and benefits provided to the President are clearly defined in his employment contract or by Board resolution*

The Board of Trustees will work to amend the President's contract to clarify all of the compensation and benefits included within the contract.

10. *Consult with legal counsel to review the benefits provided to the President to help ensure such payments are being made in accordance with the agreed upon terms of the parties.*

The Board of Trustees and College will work to amend the President's contract to clarify all of the compensation and benefits included within the contract and are in accordance with applicable tax laws.

11. *Review applicable tax guidance and/or consult with tax counsel to address whether the College, in the past, under–reported payroll and income tax liabilities for the unsubstantiated expense reimbursement payments and to ensure such payments are reported correctly in the future.*

The Board of Trustees and College will work to amend the President's contract to clarify all of the compensation and benefits included within the contract and are in accordance with applicable tax laws.

The Board of Trustees and I appreciate the efforts put forth by the Office of the State Comptroller over the past year in conducting this audit. Genesee Community College will work diligently to complete a corrective action plan and will send that plan to OSC as soon as possible.

Sincerely,

James M. Sunser, Ed.D.
President

cc: Donna Ferry, Board of Trustees Chair
Bill Emm, Executive Vice President of Finance and Operations/CFO

Appendix B: OSC Comments on the College's Response

Note 1

It is College officials' responsibility to determine, on advice of legal counsel as appropriate, whether the procurement falls within the exception prior to making the procurement. College officials were unable to demonstrate that they fulfilled this responsibility. Officials did not maintain appropriate documentation to allow for a thorough review of their decision to use this exception to competitive bidding or to demonstrate that the contract was properly bid and awarded in a manner consistent with GML.

Note 2

Although a "positive pay" service can help protect the College from certain types of check fraud, it alone cannot prevent all fraudulent payments or fictitious purchases. Adequately segregating duties provides an added layer of control and protection from these threats.

Note 3

An effective claims audit function will help identify claims that have violated or bypassed purchasing and other important internal controls. To keep the claims auditing function as independent as possible, the claims auditor should be someone who is not involved with the purchasing and check preparation functions and should report directly to the Board. For more information, College officials should refer to our publication, *Improving the Effectiveness of Your Claims Auditing Process* on our website at: https://www.osc.state.ny.us/localgov/pubs/lgmg/claimsauditing.pdf

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed College officials and employees and reviewed written policies and procedures to gain an understanding of the controls in place over the procurement, disbursement and payroll processes.

Procurement

- We sorted cash disbursements by vendor name and payment amounts from largest to smallest. We excluded payments for items that would generally not be subject to competition, such as payments to other colleges, payroll-related expenditures, health insurance, utilities, debt service payments, tuition refunds, association dues and travel reimbursements. We selected our sample from these payments totaling $13.8 million to 276 vendors.
- Using our professional judgment, we selected 36 vendors with contracts totaling approximately $4 million. We selected our sample based on the total amounts the College paid the vendors during our audit period and information obtained during our audit survey. Our selection included purchases from 10 vendors totaling $891,000 that were subject to competitive bidding requirements, 11 professional service contracts totaling $3 million and 15 purchases totaling $198,000 that were below bidding thresholds but within the College's procurement policy thresholds for obtaining written quotes.
- We interviewed officials and reviewed claims associated with the purchases and any available supporting documents to determine whether officials complied with the procurement policy and GML.

Cash Disbursements

- We sorted cash disbursements by payment amounts from largest to smallest and excluded payments to other colleges and/or municipalities, payroll-related expenditures, insurance, utilities and payments less than $500. We selected our sample from these payments totaling $15.8 million. Using our professional judgment, we selected a sample of 47 non-payroll cash disbursements totaling $2.6 million. We selected disbursements considered high risk, including material dollar amounts, unusual dollar amounts, payments to individuals, and payments we determined to be higher risk by nature such as credit card payments and direct bank charges introduced into the accounting system by way of journal entries.
- We reviewed claim vouchers, invoices and other supporting documentation to determine whether payments were supported, properly approved and

contained sufficient evidence that goods were received or services were rendered.

President's Compensation

- We reviewed the President's employment contract to gain an understanding of his contractual benefits and interviewed the Board President and other College officials as appropriate to clarify our understanding of the various provisions.
- We reviewed payroll registers and earnings reports to determine the total amount of compensation paid and benefits provided to the President during the six-year period beginning September 2013. We compared all compensation paid and benefits provided to assess whether they were in accordance with his written contract or supported by written Board authorization such as resolutions, memorandums or Board-adopted policies.

We conducted this performance audit in accordance with GAGAS (generally accepted government auditing standards). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the office of the Secretary to the Board of Trustees.

Appendix D: Resources and Services

Regional Office Directory
www.osc.state.ny.us/localgov/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas
www.osc.state.ny.us/localgov/costsavings/index.htm

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems
www.osc.state.ny.us/localgov/fiscalmonitoring/index.htm

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management
www.osc.state.ny.us/localgov/pubs/listacctg.htm#lgmg

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans
www.osc.state.ny.us/localgov/planbudget/index.htm

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders
www.osc.state.ny.us/localgov/pubs/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller
www.osc.state.ny.us/localgov/finreporting/index.htm

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers
www.osc.state.ny.us/localgov/researchpubs/index.htm

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics
www.osc.state.ny.us/localgov/academy/index.htm

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/localgov/index.htm

Local Government and School Accountability Help Line: (866) 321-8503

BUFFALO REGIONAL OFFICE – Jeffrey D. Mazula, Chief Examiner

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Buffalo@osc.ny.gov

Serving: Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming counties