

H. CARL McCALL  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

March 22, 2002

Dr. Matthew Goldstein  
Chancellor  
City University of New York  
535 East 80th Street  
New York, NY 10021

Re: Selected Auxiliary Enterprises  
Report 2000-S-44

Dear Dr. Goldstein:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have audited selected aspects of the City University of New York's Auxiliary Enterprises at Bernard M. Baruch College and the John Jay College of Criminal Justice. Our audit covered the period July 1, 1997 through March 31, 2001.

**A. Background**

The City University of New York (CUNY) has 11 senior colleges, 6 community colleges, a graduate school, and a law school. For the 2000-2001 fiscal year, more than 200,000 students were enrolled for CUNY degrees with another 150,000 students enrolled in adult and continuing education courses. CUNY is governed by a Board of Trustees and has a Central Administration to monitor and oversee campus operations.

Auxiliary Enterprises are campus-based, not-for-profit corporations that operate, manage and promote educationally related services for the benefit of the campus community. The corporations are generally responsible for college bookstore and food service operations. Although they are separate and independent legal entities, these corporations are organized under the provisions of Section 16.10 of the Bylaws of the CUNY Board of Trustees. The Bylaws specify that an Auxiliary Enterprise Board shall have the responsibility for oversight, supervision and review over college Auxiliary Enterprises. The Bylaws establish that the makeup of the Auxiliary Enterprise Board comprises at least 11 members, including the college president, and an equal number of students and faculty or administrative members. Each of CUNY's 11 senior colleges maintain an Auxiliary Enterprise.

For the year ended June 30, 1999 the Auxiliary Enterprise operations at the 11 senior colleges generated \$6.9 million in sales and service revenue and had expenditures totaling \$5.6 million.

**B. Audit Scope, Objective, and Methodology**

We audited selected aspects of contract administration, receipt of revenue, and controls over cash at CUNY's Auxiliary Enterprises at Bernard M. Baruch College and the John Jay College of Criminal Justice for the period July 1, 1997 through March 31, 2001. The objective of our performance audit was to determine whether the Auxiliary Enterprise Boards of the two colleges have exercised their responsibilities over these three functions.

Each of the Auxiliary Enterprises at CUNY's 11 senior colleges is audited annually by a certified public accountant (CPA). We obtained the certified financial statements and management letters for each of the 11 Auxiliary Enterprises for the fiscal year ended June 30, 1999. As part of an audit survey, we reviewed and analyzed information shown on these financial statements. We also visited the 11 campuses to discuss Auxiliary Enterprise operations with college officials. We reviewed the management letters prepared by certified public accountants (CPAs) that prepared the financial statements. We judgmentally selected Bernard M. Baruch College (Baruch) and the John Jay College of Criminal Justice (John Jay) for audit because these colleges were among those that had the highest number of reportable conditions cited in their annual management letters.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Auxiliary Enterprises at Baruch and John Jay that are included within our audit scope. Further, these standards require that we understand the internal control structure of these two Auxiliary Enterprises and their compliance with those laws, rules and regulations that are relevant to the operations in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We used a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those activities we have identified through a preliminary survey as having the greatest probability of needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

**C. Results of Audit**

We found that the Auxiliary Enterprise Boards at Baruch and John Jay need to provide greater oversight in the areas of contract administration, receipt of revenue and cash controls. Food service contracts at Baruch and John Jay were not being periodically updated and re-bid. We also

found a pattern where contract payments from vendors were made late or in some cases, not at all. At Baruch, we found various control weaknesses over cash.

**D. Contract Administration**

Good internal controls require that contracts be open to competition at the end of the contract period to ensure the most favorable terms and conditions are received. While there may be valid reasons for extending certain contracts, the Auxiliary Enterprises should, as a practice, develop an appropriate Request for Proposal (RFP) to re-bid contracts on a periodic basis.

The CPA management letters indicated that vendor agreements for four of the eleven senior colleges, including John Jay and Baruch, were not renewed in writing. During our audit, we found that the Auxiliary Enterprise at John Jay has contracted with the same food service company since 1992. The original contract was for a three-year term and has been extended with the same rates, terms and conditions through June 30, 2001. The first extension, dated August 28, 1997, was more than two years after the contract period had expired. It extended the existing contract for a three-year period that ended June 30, 1998. This extension was followed by three consecutive one-year extensions. The Auxiliary Enterprise receives \$2,500 per month during the eight months that school is in session and \$1,250 per month during the four months of the summer and winter breaks. These monthly amounts have remained the same since 1992. It is important for contracts to be updated and re-bid in order to obtain the most favorable terms. We noted that John Jay receives \$2.42 in food service revenue per full-time equivalent (FTE) student, the second lowest amount received by the senior colleges.

In response to our observations John Jay officials stated that the corporation is in the process of formalizing Requests for Proposals to bid for food services and has extended the present contract for another six months while the process is taking place.

The Auxiliary Enterprise at Baruch has contracted with the same food service vendor as John Jay since 1995. The original contract was for a one-year term and provided for three successive one-year renewal options. Baruch has continued using this vendor at the same terms and conditions as what was in place since 1995. Baruch's food service revenue per FTE was \$8.82, the third highest of the senior colleges.

In response to our observations Baruch officials stated that the corporation released an RFP for food service operations, subsequently received proposals and a contract was awarded in August 2001.

**E. Receipt of Revenue**

It is important for the Auxiliary Enterprises to receive the revenues to which they are entitled in a timely manner, so the funds can be used as intended. The Board is responsible for ensuring all payments are received. Contracts should specify when vendor payments are due, and also provide for a late payment penalty when the vendors fail to comply with such terms.

The CPA management letters for seven of the eleven campuses, including Baruch and John Jay, stated that commissions owed by vendors were not timely remitted. We noted that the payments from John Jay's food vendor were consistently received late and that some payments from 1998 and 1999 had not been remitted as of March 2001. For the calendar 1998, five payments were late and six payments totaling \$7,500 had not been received. For 1999, four payments were late and one, totaling \$1,250, had not been received. At Baruch, we found consistently late payments from the food vendor and the bookstore vendor. During the period September 1997 through December 2000, 21 commission payments for the food vendor were received past the due date. The payments ranged from 34 days late for the October 1997 payment to 312 days late for the September 1999 payment. However, the contract does not provide a penalty for late payments. For the contract with the Baruch bookstore vendor, we found that 12 of the 13 quarterly payments made during our audit period were received over 30 days from the end of the quarter.

In response to our observations officials from Baruch stated that stricter monitoring of late payments has been implemented through a tighter reporting system. They added that warning letters will be sent to contractors delinquent in their commission payments and habitual late payments will result in termination of contracts at the Board's discretion. John Jay officials stated that the College will take managerial steps to secure timely payment by assigning one of its Accounting staff to monitor payment receipts monthly, and by having the College's Chief Accountant review the records of receipt monthly.

CUNY officials also responded that the University's legal counsel has developed for the colleges a comprehensive RFP for vendor-managed food services, including a penalty provision for late commission payments.

#### **F. Cash Controls**

Good business practices require that receipts be deposited timely to maximize earnings and to properly safeguard funds. In addition, funds should be invested in a manner that maximizes interest earnings and allows for access to the funds as needed. The CPA management letters noted that large cash balances for three campuses, including Baruch, were maintained in low interest bearing accounts and/or certificates of deposit.

At Baruch, receipts were not being deposited in a timely manner. In one instance 28 days elapsed between deposits (June 1, 1998 through June 29, 1998), even though there were checks on hand for more than one week in that period. Overall there were 65 checks totaling more than \$153,000 on hand for more than one week during the period July 1, 1997 through June 30, 2000. The Baruch's Auxiliary Enterprise was maintaining its funds in a non-interest bearing account, with an average balance for the period July 1998 through June 2000 of about \$164,000. The monthly balance ranged from almost \$9,000 in August 1999 to over \$350,000 in April 2000. We estimate at a rate of 2 percent, more than \$6,500 in interest could have been earned during this period.

Baruch's Auxiliary Enterprise procedures require that the request for a check form contain two signatures. Of the 48 check requests that we sampled, 15, or almost a third, did not have the required two signatures. Three requests had no signatures.

In response to our observations agency officials from Baruch stated that a tighter reporting structure has been implemented, and timely deposit of funds has been made a high priority.

### **Recommendations**

1. *Ensure that Auxiliary Enterprise Boards at John Jay and Baruch develop RFPs and re-bid food service contracts on a periodic basis.*
2. *Ensure that the Auxiliary Enterprise Boards at John Jay and Baruch timely collect from vendors all funds to which they are entitled.*
3. *Ensure that controls over cash at Baruch are strengthened to provide for the timely deposit of funds, to maximize interest earnings, and to ensure cash disbursements are properly authorized.*

We provided CUNY officials with a draft of the matters provided in this report for their review and comment. Their comments have been considered in the preparation of this report and are included as Appendix A. CUNY officials stated that both Colleges have reacted in a very responsible way to the weaknesses identified in this report and have taken several steps to strengthen their operations. These actions include the development of RFPs and re-bidding of fund contracts, procedures to monitor the timely collection of commission payments and, in the case of Baruch College, the implementation of tighter reporting controls to ensure the timely deposit of funds.

Within 90 days after the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the City University of New York shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

Major contributors to this report were William Nealon, Anthony Carbonelli, Carole Siegall, Zenaida Bhuiyan, Marc Geller, Hunan Zhang and Paul Bachman.

We wish to thank the management and staff of the City University of New York for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Jerry Barber  
Audit Director

cc: Louis Chiacchere, Office of CUNY Internal Audit  
Deirdre A. Taylor, Division of the Budget

The City University of New York



**OFFICE OF INTERNAL AUDIT AND MANAGEMENT SERVICES**

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February 19, 2002

Mr. Jerry Barber, Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Mr. Barber:

I write in response to your final draft report of selected aspects of The City University of New York's Auxiliary Enterprises at Baruch and John Jay Colleges (2000-S-44). As your draft report indicates, both Colleges have taken several steps to strengthen already existing safeguards over their auxiliary enterprise operations. As you know, these steps were outlined by the Colleges in their previous responses to the preliminary draft report (see attached copy).

The two Colleges have reacted in a very responsible way to the weaknesses identified by the State auditors and are confident that the actions taken fully satisfy the intent of the audit recommendations. The actions taken include the development of RFPs and re-bidding of food service contracts, procedures to monitor closely the timely collection of commission payments, and in the case of Baruch College, the implementation of tighter reporting controls to ensure the timely deposit of funds. The two Colleges understand the importance of monitoring control procedures and will continue to periodically review these procedures to ensure that they are operating as intended.

The two Colleges acted promptly and responsively to the concerns raised by the State auditors and in fairness, their actions should be noted in the section of the final report entitled "Results of Audit".

The University appreciates the opportunity to respond to this final draft report and if you have any questions regarding this response, please call me at (212) 997-5820.

Sincerely,

Louis Chiacchere

c: Chancellor Matthew Goldstein  
President Gerald Lynch  
President Edward Regan  
Senior Vice Chancellor Allan Dobrin  
Vice Chancellor Sherry Brabham  
Vice President Frederick Hammond  
Vice President Robert Pignatello

**Appendix A**



**OFFICE OF INTERNAL AUDIT AND MANAGEMENT SERVICES**

535 East 80th Street, New York, NY 10021  
Voice:(212) 997-5820 Fax:(212)997-2301  
e-mail: [ljbh@cunyvm.cuny.edu](mailto:ljbh@cunyvm.cuny.edu)

August 20, 2001

Mr. Anthony Carbonelli  
Principal State Accounts Auditor  
Office of the State Comptroller  
123 William Street, 21<sup>st</sup> Floor  
New York, NY 10038-3804

Dear Mr. Carbonelli:

I write in response to your request for comments regarding the preliminary draft report of The City University of New York- Monitoring and Control Over Auxiliary Enterprises (2000-S-44). The University and the two senior colleges (Baruch and John Jay) that were selected for audit appreciate the opportunity to respond to this preliminary draft report. The attached responses provided by these two colleges address the recommendations and are reflective of their efforts to improve already existing internal controls over their operations. My comments below address concerns raised by University legal counsel, as well as my own concerns about the relevance or appropriateness of food service revenue comparisons.

Upon the advice of University legal counsel, I request that the phrase "...these corporations are subject to CUNY oversight" in the Background section of the report be changed to reflect the corporate status of auxiliary operations. These operations are separately incorporated organizations under the State Not for Profit Corporation Law and the language used above might create a problem with their separate and distinct status. Accordingly, I would appreciate that the phrase above be replaced with the statement: "these corporations carry out operations, which are integrally related to CUNY". In addition, a change should also be made in the Background section regarding the number of auxiliary board members. While the report indicates that the makeup of the board is set at 11 members, the University's Bylaws actually indicate that the board should comprise at "least" 11 members. The report should be changed to include the word "least" in describing the makeup of the auxiliary board. Both Baruch and John Jay comply with this requirement.

I would also like to comment on the difficulties of comparing the level of food service commission revenues between colleges. The inference drawn from the report that the revenue differences were somehow due to the failure of John Jay to re-bid the contract on a more frequent basis is somewhat dubious. The amount of commission revenues are directly affected by several factors such as pricing policy, availability of food service near the college, extent of catering performed for the college, as well as the

\*  
**Note**

\* See State Comptroller's Note, Appendix A-3

number of vending machines that can physically fit on a campus. In addition, commission revenues are not the only factor a college considers in negotiating a contract. Other factors include the vendor's menu selection, services provided, and experience in the food service business, as well as what expenses the vendor will assume during the course of the contract and the vendor's commitment to renovate the cafeteria area at his/her own expense. For these reasons, I do not believe that your revenue comparisons provide either a fair or valid assessment of the two contracts. Accordingly, based on your limited analysis, I disagree with your contention that the comparatively lower commission revenues were due to the failure of John Jay to re-bid it contract on a more frequent basis. I suggest that the revenue comparison sentence be excluded from the formal draft report.

\*  
**Note**

Finally, regarding recommendation 1, the University's legal counsel responsible for the CUNY related entities area has developed for the colleges a comprehensive RFP for vendor managed food services including a penalty provision for late commission payments.

Thank you again for the opportunity to respond to the preliminary draft report. If you have any questions regarding these responses, please call me.

Sincerely,

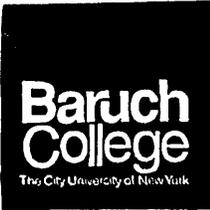


Louis Chiacchere

- c: Vice Chancellor Sherry Brabham
- Vice President Frederick Hammond
- Vice President Robert Pignatello
- Mr. Robert Sermier
- Ms. Jane Davis

\*State Comptroller's Note

These CUNY comments included in Appendix A pertain to matters that were part of our preliminary findings and that are not part of this final report.



OFFICE OF THE VICE PRESIDENT  
FOR FINANCE AND FACILITIES

August 14, 2001

TO: David Rankert  
Office of Internal Audit and Management Services

FROM: Frederick J. Hammond, Jr.   
Vice President for Finance and Facilities

SUBJECT: Auxiliary Enterprises at Baruch

In response to the three recommendations offered by the State Comptroller's Office regarding Auxiliary Services at Baruch College, please note that the following remedies are in effect or will be in effect:

- The Baruch College Auxiliary Enterprises Corporation Board released an RFP on September 1, 2000, subsequently received proposals and a contract was awarded to the Follett Higher Education Group, Inc., effective August 1, 2001.
- The Corporation release an RFP for food service operations on February 21, 2001, subsequently received proposals and a contract was awarded to Metropolitan Food Services, Inc., effective August 1, 2001.
- Stricter monitoring of late payments has been implemented through a tighter reporting system, which will require submission of a monthly summary of revenues received to all administrative officers of the Board. Warning letters will be sent to contractors delinquent in their commission payments, and, consistent with contractual agreements, habitual late payments will result in termination of contracts, at the discretion of the Board.
- The manager of the College's Student Accounting Unit, who is in charge of depositing revenues received by the Auxiliary Enterprises Corporation, now reports directly to the Office of the Vice President for Finance and Facilities, who has recently been appointed to the Auxiliary Board. A tighter reporting structure has been implemented, and the timely deposit of funds has been made a high priority.

Please let me know if you require any additional information or clarification.

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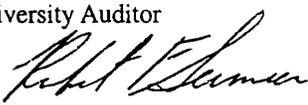


JOHN JAY COLLEGE OF CRIMINAL JUSTICE

*The City University of New York*  
445 West 59th Street, New York, N.Y. 10019  
212 237-8000

August 14, 2001

To: David Rankert  
Deputy Chief University Auditor

From: Robert Sermier   
John Jay College

Subject: Preliminary Draft – State Audit of Auxiliary Enterprises  
Operations

This serves as the College's response to the subject document.

For the two findings and recommendations which apply to John Jay, the College agrees with both and notes the following:

For recommendation 1, the College is committed fully to re-bidding the food services contract, as described in Vice President Pignatello's memorandum to Mr. Chiacchere of 5/29/01 (copy attached). The RFP is expected to be issued next month. The slight delay from the original schedule is due solely to personnel changes in key positions within the College's Procurement Office. Related to recommendation 2 below, the contract will include penalty clauses for late payments by the vendor.

For recommendation 2, in addition to the above, the College will take Managerial steps to secure timely payment by assigning one of its Accounting staff to monitor payment receipt monthly, and by having the College's Chief Accountant review the records of receipt monthly.

Please contact me if any of the above is not satisfactory, or if you have questions. Thank you for your assistance in this matter.

Attachment: Memorandum of 5/29/01

cc: Vice President Pignatello  
Ms. Cedeno



JOHN JAY COLLEGE OF CRIMINAL JUSTICE  
THE CITY UNIVERSITY OF NEW YORK  
OFFICE OF ADMINISTRATIVE AFFAIRS  
899 Tenth Avenue, Room 622  
New York, New York 10019

TO: Louis Chiacchere,  
Internal Auditor

FROM: Robert M. Pignatello,   
Vice President for Administrative Affairs

SUBJECT: FOOD SERVICES OPERATIONS

DATE: May 29, 2001

Enclosed please find a copy of the agreement instituted by and between John Jay College of Criminal Justice Auxiliary Services Corporation, Inc., ("Corporation") and the MBJ Cafeteria Corporation ("MBJ"). MBJ has the exclusive right to sell food, food products and beverages in designated areas as well as to sell food, food products and non-alcoholic beverages at vending machines; and, the exclusive right to provide catering services to the college community, except for the Office of the President and Student Organizations. MBJ's relationship with the College dates back to 1984. The original term of the current agreement was from April 24, 1991 through May 31, 1995. Since then, the Corporation has renegotiated and extended MBJ's contract on an annual basis.

The Office of Student Development administers the contract in terms of health and safety conditions in the kitchen and dining areas, and pricing and quality of food service provided to faculty, staff and students. This office handles all faculty, staff and student complaints. The Office of Business Services manages the contract in terms of MBJ's financial obligation to the Corporation, i.e., its financial statements, commission payments, etc. The College has been generally satisfied with MBJ as to providing a variety of foods, fairly portioned and reasonably priced. The Corporation has compared prices with that of other establishments offering the same or similar type of service in the vicinity of John Jay College and has found MBJ's pricing policy significantly lower (see attached Exhibits A through F).

The Corporation is in the process of formalizing 'Requests for Proposals' to bid for Food Services with snack vending. A separate RFP is under development for exclusive beverage pouring rights. We anticipate releasing these RFPs in the latter part of July 2001. The effective date of the awards to contractors is proposed for January 1, 2002. MBJ will therefore receive a six-month contract extension effective July 1, 2001.

I am also enclosing a draft of the Food Service RFP we are currently working with. It is based upon a template from Jane Davis. We will be looking for the successful bidder to: expand food service into other areas of the College, to commit to a capital improvement plan, relieve the College of certain maintenance and equipment obligations in the current contract, and change the basis of the commission from a fixed rate to one based on a percentage of sales.

CC: Helen D. Cedeno, Director of Accounting  
Angela Martin, Acting Business Manager