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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 20, 2003

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

Re: Report 2003-F-13

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 reviewed the actions taken by officials of the City University of New York (CUNY) as of May 8, 2003, to implement the recommendations contained in our audit report, *CUNY: Selected Equipment Procurement Practices* (Report 2000-S-19). Our report, which was issued June 4, 2001, reviewed office equipment procurement practices at selected CUNY facilities during the fiscal years of 1998 and 1999.

Background

CUNY is the largest university in the nation, composed of 20 colleges and associated facilities. As a matter of course, CUNY needs sufficient state-of-the-art business office equipment (e.g., computers, printers, photocopiers, etc.) to function in an effective and efficient manner. According to CUNY records, it spent more than \$5.4 million during fiscal year 2002 to procure or lease such equipment for administrative and academic use at its senior (four-year) colleges.

New York State Education Law, Section 6218 (a)(iii), states that "Rules and regulations promulgated by the City University Board of Trustees shall, to the extent practicable, require that competitive proposals be solicited for purchases, and shall include requirements that purchases and contracts authorized under this section be at the lowest possible price." In addition, Section 6218 (h) states that "Notwithstanding any of the provisions of this section, the Board of Trustees may make purchases, when available, through the State of New York, the City of New York, the Federal government or the Board of Education of the City of New York, provided that the Board of trustees shall accept sole responsibility for any payment due the vendor." Moreover, prudent business practices require CUNY procurement personnel to familiarize themselves with the prices available through these official contract sources.

Summary Conclusions

Our prior audit focused on three CUNY schools: Queens, Medgar Evers, and Hunter Colleges. The audit found instances of equipment procurements that did not utilize State contracts and which, if such contracts had been used, would have resulted in lower prices. We identified excess payments totaling over \$330,000 (\$277,614 at Queens, \$18,805 at Medgar Evers, and \$33,750 at Hunter).

At Queens College, specifically the CUNY Law School, we had identified 11 copiers that had been purchased without consulting New York State contracts, thereby resulting in overpayments. Law School officials responded that they had suspended monthly payments to the vendor; they continued to discuss the issue with the vendor with the goal of reaching a settlement. We recommended that CUNY recoup \$277,614 in overpayments made in connection with the procurement of copiers at the CUNY Law School. We further recommended that all Purchasing Agents review all available procurement sources before making a purchase.

In our follow-up review, we found that CUNY officials have taken steps to implement both recommendations contained in our prior audit report. The CUNY Law School, through ongoing negotiations with the vendor, reached an agreement to obtain credits for past leases and various discounts on new purchases, the sum total exceeding the original overpayments. In addition, CUNY officials issued an administrative advisory to various University officials, including all Purchasing Agents, in which they instructed them to specifically consult State contracts when making a purchase.

Summary of Status of Prior Audit Recommendations

Of the two prior audit recommendations, CUNY officials have implemented both recommendations.

Follow-up Observations

Recommendation 1

Recover the overpayments identified in this report.

Status - Implemented.

Agency Action - CUNY Law School officials effectively recovered prior overpayments of \$277,614 made to the vendor by negotiating a series of credits and discounts with the vendor, whereby the vendor agreed to forgo outstanding unpaid monthly invoices, interest and maintenance charges due on previously leased copiers.

Credits and discounts received from the vendor totaled \$303,104. The final negotiated settlement involved a purchase of 14 new units by CUNY, for which in turn, the vendor agreed to forgo \$148,177 of outstanding invoices. CUNY officials agreed to this proposal and OSC concurred. Total credits and discounts from the vendor to CUNY actually exceed the audit disallowance amount by \$25,490 (\$303,104 - \$277,614).

After reviewing the circumstances associated with the particular piece of equipment (a copier) we questioned, Medgar Evers officials concluded that no overpayment was made.

Hunter officials reached a legal settlement with the equipment vendor to address the overpayment we identified, as well as to invalidate the lease/purchase agreement.

Recommendation 2

Require all College purchasing agents to review all available procurement sources before they enter into a purchase agreement. Select the lowest price available from a responsible source.

Status - Implemented.

Agency Action - CUNY officials provided a copy of Administrative Advisory No. 01-1, dated November 27, 2001. Page 2 of this document states that "...Colleges are required by law to investigate whether the goods or services are available from a state centralized contract." This document was sent to all CUNY Purchasing Agents.

Major contributors to this report were Barry Mordowitz and Jeremy Mack.

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

Very truly yours,

William P. Challice
Audit Director

cc: Deirdre Taylor