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STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 28, 2000

Mr. Robert King
Chancellor
State University of New York
State University Plaza
Albany, New York 12246

Re: Report 99-F-40

Dear Mr. King:

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 State University of New York at Stony Brook to implement the recommendations contained in our audit report, *University and Clinical Practice Management Plan Space Leasing Practices (Report 96-S-36)*. Our report, which was issued May 29, 1998, examined whether the State University and its Clinical Practice Management Plan engaged in appropriate and economic space leasing practices.

Background

The State University of New York (SUNY) at Stony Brook (University) offers comprehensive undergraduate and graduate programs to 12,700 full-time and part-time undergraduate students and 6,400 full-time and part-time graduate students. The University operates a Health Sciences Center (Center) which includes five professional schools, a 536-bed teaching hospital and a 350-bed veteran's home. Faculty of the School of Medicine are permitted to operate clinics to treat their patients. The amount of income earned by the faculty in treating patients at these clinics is regulated by the School's Clinical Practice Management Plan (Plan). Employing approximately 1,700 full-time and part-time faculty, the University's total appropriated-funds budget is approximately \$540 million, including self-supporting enterprises, such as the hospital, veteran's home and residence halls.

The University and the clinical practices regulated by the Plan generally utilize State-owned facilities and property. However, additional off-site space is required for medical clinics, office space, storage and other off-site programs. For the year ended June 30, 1999, the University expended approximately \$3.4 million in connection with the leasing of space at 17 sites. During the same period the Plan expended approximately \$682,400 to lease space at seven sites.

Summary Conclusions

Our prior audit found that improvements are needed if leasing practices are to be as economical as possible. For example, overpayments were made on certain leases, renovation costs were not adequately controlled, and all lease costs were not considered when competitive lease proposals were evaluated. We also identified a potential conflict of interest pertaining to one lease.

In our follow-up review, we found that University and Plan officials have taken some steps to strengthen leasing practices. For example, we saw evidence that common area maintenance (CAM) charges were being scrutinized for duplication and appropriateness. In addition, the one unutilized site identified in our prior audit had been placed into service.

Summary of Status of Prior Recommendations

Of our prior 15 audit recommendations, University and Plan officials have implemented four recommendations, partially implemented two recommendations and have not implemented five recommendations. Four recommendations are not applicable.

Follow-up Observations

Recommendation 1

When comparing the costs of different leases, take into account all lease costs, including CAMs, and submit evidence of this comparison to the Office of the State Comptroller when the lease is submitted for approval.

Status - Not Applicable

Agency Action - According to University officials, no new leases have been entered into by the University and the Hospital since the time of our audit and, therefore, they have not had the opportunity to implement the recommendation. The University has prepared draft guidelines that revise the off-site leased property procedures. These guidelines include a criteria that CAM costs and real estate taxes be included along with rental rates as part of the analysis of the site scoring process. Procedures also distinguish between gross and net rental rates and construction costs, where applicable.

Recommendation 2

Develop guidelines for weighting the criteria used in selecting leases.

Status - Partially Implemented

Agency Action - The University has prepared draft guidelines dated October 1998 that revise the off-site leased property procedures. These guidelines include a weighted set of selection criteria which must be predetermined and documented. The selection criteria could include but need not be limited to building size, proximity to hospital, and accessibility. These guidelines have not been approved and implemented as of the time of our review.

Recommendation 3

Refer the lease between the Center and the Plan to the State Ethics Commission to determine whether the lease violates the Commission's Code of Ethics.

Status - Not Applicable

Agency Action - In the 90 day response to the audit report, SUNY Administration wrote that "We do not believe that a referral to the Ethics Commission is necessary. At the time this lease was negotiated, executed and approved (August 1995), the University was not aware that a possible ethics violation existed." The response also stated that procedures have been revised to inquire about ownership and the need for competitive bidding.

Auditors' Comments - The lease was submitted by the Office of the State Comptroller to the New York State Ethics Commission, and on November 22, 1999 the Commission reported that "Although the circumstances of the lease arrangements may suggest at least the appearance of a possible conflict of interest, the Commission found no evidence to suggest that the State employees involved were motivated by personal interest."

Recommendation 4

Develop guidelines consistent with OASAS Bulletin 96-05 that govern leases between the Center and Plan, and renegotiate the lease between the Center and the Plan in accordance with the guidelines

Status - Not Implemented

Agency Action - University officials disagreed with this recommendation. In their 90 day response to the audit report they wrote that "A retrospective review/renegotiation of this lease is not necessary. We believe existing procedures already provide the campus with the necessary assurances. All leasing transactions are examined prior to their execution and only those in the best interests of the campus are approved."

Recommendation 5

Promptly either make use of the space in Patchogue, sublet the space, or terminate the lease.

Status - Implemented

Agency Action - According to University officials the space in Patchogue has been utilized for clinical purposes since May 1998. We visited the site in November 1999 and found the following medical clinics: Allergy, Immunology, Internal Medicine, Pediatrics, and OB/GYN.

Recommendation 6

Submit to the State Comptroller and the Attorney General all agreements between the Center and the Plan's professional medical service corporation.

Status - Not Implemented

Agency Action - SUNY's 90 day response to the prior audit report stated the intention to review such arrangements in the future and submit any agreements which qualify under the Finance Law. University officials informed us that they presently disagree with this recommendation.

Recommendation 7

Ensure that the Center conducts annual audits of all CAM expenses.

Status - Partially Implemented

Agency Action - The University has taken the first steps in performing a review of CAM expenses on an annual basis. The Hospital Finance Department attempted to identify on a sample basis, duplicate expense items claimed based on specific work orders. According to University Internal Audit Department officials, they will begin performing periodic audits on CAM expenses in the near future.

Recommendation 8

Determine the portion of the sewer tax bill relating to 1995 and reconcile this amount against the \$61,133 that was already paid in 1995. If there is an unpaid tax balance in 1995, apply the \$35,065 in questioned costs against this balance, and obtain a refund for any questioned costs in excess of this balance. When paying the sewer taxes for 1996, ensure that payments made for 1995 are not duplicated.

Status - Implemented

Agency Action - Evidence was provided to us documenting a review by the University of sewer tax claims from the real estate management firm and the actual tax bills which included sewer charges from the Town of Brookhaven for the rental sites reported in the audit report. No duplications were identified.

Recommendation 9

Ensure that the fee charged by the real estate management firm is correctly calculated.

Status - Implemented

Agency Action - Evidence was provided to us documenting a review by the University of the fee charged by the real estate management firm. The review determined that the fees charged were in accordance with lease terms.

Recommendation 10

Determine the amount paid into the capital reserve account and obtain a refund of this amount.

Status - Not Implemented

Agency Action - In response to our follow-up review of this recommendation, the University responded that "Stony Brook generally disagreed with this recommendation."

Recommendation 11

Require the entire amount of any CAM overpayment to be applied against the next quarterly billing after the overpayment has been identified.

Status - Implemented

Agency Action - We obtained documentation showing that CAM expense overpayment and underpayment were being handled in a correct manner.

Recommendation 12

Determine whether the management fees paid to the condominium association and the real estate management firm are at all duplicative, and if so, work to eliminate the duplication.

Status - Not Implemented

Agency Action - No action has been taken to determine what services are being provided for in the management fees charged by either party.

Recommendation 13

Develop written procedures for lease renovations and ensure that these procedures protect the State's economic interests in the areas of contractor selection, cost estimation, cost monitoring, and cost sharing with the landlord.

Status - Not Implemented

Agency Action - University officials informed us that they are in the process of developing procedures for lease renovations. However, documented draft procedures were not available to support accomplishment of such efforts.

Recommendation 14

Indicate how renovations will be paid for in the price comparisons that accompany the leases submitted for the approval of the Office of the State Comptroller.

Status - Not Applicable

Agency Action - According to University officials, no new leases have been entered into by the University and the Hospital, since the time of our prior audit. Therefore, they have not had the opportunity to implement the recommendation.

Recommendation 15

Consult with OGS on an ongoing basis as to the reasonableness of proposed lease renovation costs.

Status - Not Applicable

Agency Action - According to University officials, no new lease renovation provisions have been established by the University and the Hospital since the time of our prior audit. Therefore, they have not had the opportunity to implement the recommendation.

Major contributors to this report were Bill Nealon, Tony Carbonelli, Michael Miller and Carole LeMieux.

We would appreciate your response to this report within 30 days, indicating any actions planned or taken to address any unresolved matters discussed in this report. We also thank the management and staff of the University and Plan for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Jerry Barber
Audit Director

cc. Mr. Charles Conaway