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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

October 16, 2003

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

Re: Report 2003-F-32

Dear Mr. King:

Pursuant to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article II, of the State Finance Law, we have reviewed the actions taken by the State University of New York (SUNY) College at Old Westbury (College) as of September 30, 2003 to implement the recommendations contained in our audit report, *College at Old Westbury, Services Provided by Hudson Design* (Report 2001-S-38). Our report, which was issued on April 8, 2002, assessed whether the College has adequate controls in place to ensure that selected construction contracts were evaluated and awarded properly and that payments were properly supported and documented.

Background

The College is a four-year arts and sciences college located in Nassau County. The College at Old Westbury Foundation (Foundation) is a private, not-for-profit corporation headed by an Executive Director and organized exclusively for charitable, religious, educational, literary and scientific purposes. The Foundation's Guidelines state that the role of the Foundation should be the solicitation and management of funds in accordance with the provisions of its corporate charter. Foundation funds, which derive from donations and other private sources, should be used for purposes supportive of SUNY programs and consistent with SUNY policies and State laws, rules and regulations. The Guidelines further state that the College president should have direct access to Foundation officers to ensure that the work of the Foundation will be fully compatible with SUNY purposes. Ordinarily, Foundations should not administer programs that are the responsibility of the campus or an auxiliary service corporation under contract with the SUNY.

The College Council, established under Chapter 356 of the Education Law, provides for local supervision of the operations and affairs of each State-operated SUNY institution. The purpose of the College Council is to develop and foster strong relationships between the institution and local communities and to promote campus and university interests. Of the ten members who serve on the College Council, the Governor appoints nine and the College students elect one.

Summary Conclusions

In our prior audit, we examined procurement transactions related to three construction contracts involving Gruzen Samton and Hudson Design. These contract payments revealed a pattern of noncompliance with policy and procedures, mismanagement, and undocumented decision making. An overall result stemming from these problems is the appearance of partiality or favoritism toward Hudson Design in the award of State funded projects. Our review found that the transaction to hire and pay Hudson Design to complete a campus Conceptual Development Plan had problems including inappropriate use of the Foundation, an absence of competition, noncompliance with SUNY Guidelines, avoidance of sound business practices, and the shielding of transactions from State oversight and mismanagement.

In our follow-up review, we found that College officials have addressed the issues reported upon. The College has reorganized its business division and has engaged an internal control officer to monitor expenditures. The College's procurement guidelines and procurement manual have been revised; highlighting the purchasing associate's responsibility to review all purchase orders over \$10,000. The College has taken the necessary steps to develop sufficient written documentation to support compliance with the guidelines, the basis for vendor selection and the reasonableness of price. We also found that the Foundation has improved the way it authorizes expenditures. A review of the cash disbursement and financial records of the College and the Foundation disclosed that no additional monies had been paid to Gruzen Samton and Hudson Design.

Summary of Status of Prior Audit Recommendations

Of the four prior audit recommendations, the College has implemented all four recommendations.

Follow-up Observations

Recommendation 1

Determine the underlying factors that led to the apparent favoritism towards Hudson Design in the award of work covered by this audit.

Status - Implemented

Agency Action - College officials indicated that most of the findings involved systemic failures in the procurement process at the State University Construction Fund (SUCF) and the improper actions of several officials of SUCF, the College and the Foundation. These officials stated that as a result of those findings, employment of the general manager at SUCF ended. They

also stated that the College officials involved are no longer employed at the College and the Foundation's Board of Trustees has been completely reestablished.

Recommendation 2

Comply with SUNY procurement procedures when the College expends State funds. Maintain written documentation supporting compliance, the basis for vendor selection and the reasonableness of price.

Status - Implemented

Agency Action - In June 2002, the College reorganized its Division of Business and Finance, which is now headed by a Chief Financial Officer who is assisted by two Associate Vice Presidents, one for Business Compliance and the other for Business Affairs. The Business Compliance component is responsible for foundation grants, contracts, purchasing, internal audit and facilities rental while the Business Affairs component is responsible for registration, accounting, payroll, and budget. Since July 2002, the College has developed and distributed educational procurement guidelines for staff and has revised the procurement procedure manual to highlight the purchasing associate's responsibility to review all purchase orders over \$10,000 to ensure proper documentation is maintained.

The procurement guidelines, according to College officials, are in line with Item 300 of SUNY's Administrative Procedure Manual that details appropriate purchasing and contracting procedures. Further, the College reduced the purchasing flexibility dollar limit from \$150,000 to \$50,000 and hired an Internal Control officer to ensure that purchasing guidelines are adhered to. Our review of three selected contracts over \$10,000 awarded in the 2001-02 school year indicated that the College maintained written documentation supporting the basis for vendor selection and the reasonableness of the price.

Recommendation 3

Use Foundation monies for Foundation purposes only; do not use the Foundation to administer or pay for campus projects. Discontinue the practice of initiating campus projects with Foundation monies that are subsequently reimbursed with State monies.

Status - Implemented

Agency Action - In June 2001 the Foundation adopted a resolution that prohibits any expenditure over \$10,000 without approval by the Board of Directors or the Board's Executive Committee. The resolution further limited the Executive Director of the Foundation to expenditures up to only \$5,000 and required that all expenditures be reported in the Foundation's financial statements. Further, College officials stated that Foundation monies are no longer used for College projects.

Our review of the cash disbursements journal for 2003 found that no additional payments were made to Gruzen Samton and Hudson Design. We also did not note any other

disbursements over \$10,000. College officials assured us that Foundation monies are used for Foundation purposes only, pursuant to the Foundation's guidelines. They indicated that the College has discontinued the practice of initiating campus projects with Foundation monies that are subsequently reimbursed with State funds. We also reviewed activity in the Foundation's Interfund Transfer Account and did not observe any transactions reimbursing the Foundation for State expenditures.

Recommendation 4

Do not authorize or proceed with contract amendment work prior to obtaining the required approval from the Office of the State Comptroller.

Status - Implemented

Agency Action - College officials stated that procedures and controls regarding the amendment of existing contracts have been reaffirmed with all pertinent staff. Each contract amendment is accompanied by Form AC 340 Contract Encumbrance Request which is used to request funding for existing contracts by the requesting agency along with supporting documents to Office of State Comptroller (OSC) Bureau of State Expenditure. OSC reviews the documents and attaches Form 1552 (Approved Document Transmittal), which indicates that the contracts has been reviewed and approved. Officials stated that since the College reorganization of its business division, only the Vice President for Business Compliance can authorize contract encumbrance requests. Our test of two contracts found that the proper contract amendment procedures were followed.

Major contributors to this report were Michael Solomon, Tom Trypuc and Alexander Marshall.

We thank the management and staff of the College at Old Westbury and the College at Old Westbury Foundation for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Steven E. Sossei
Audit Director

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