

H. CARL McCALL
STATE COMPTROLLER



A.E. SMITH STATE OFFICE BUILDING
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE
COMPTROLLER

July 23, 1998

Dr. John W. Ryan
Chancellor
State University of New York
State University Plaza
Albany, NY 12246

Re: Report 97-F-30

Dear Dr. Ryan:

According to the State Comptroller's authority as set forth in Section 1, Article V of the State Constitution and Section 8, Article 2 of the State Finance Law, we have reviewed the actions taken by officials of the State University of New York (SUNY) as of July 20, 1998, to implement the recommendations included in our prior audit report, Report 95-S-80, entitled "SUNY Health Science Center at Syracuse Leasing Practices." Our prior audit report, which was issued on May 30, 1996, examined procedures and controls used by the SUNY Health Science Center at Syracuse when leasing space.

Background

The SUNY Health Science Center at Syracuse (Center) provides essential community health care, educates health care professionals and conducts research. The Center is made up of four colleges and operates a 350-bed hospital.

SUNY Board of Trustees' Policy (Policy) requires that medical doctors who work at the Center must belong to the Center's Clinical Practice Management Plan (Plan) if they have private practices. The Policy provides that any unspent Plan revenue each year accrues to the Center's School of Medicine. Therefore, to the extent that Plan costs are minimized, there is a potential for increased revenues to be available to meet State needs.

To address the needs of its patients and its health care professionals, the Center uses State-owned buildings, and also rents additional space for medical clinics, offices, parking and storage. Center officials indicate that for the 1996-97 fiscal year, the Center spent \$2.4 million in State funds to rent 11 properties. According to the officials, the Center has not signed any new leases for space since our prior audit. The Plan reported spending \$2.7 million for rental costs in calendar year 1996, the latest year for which such data is available.

Summary Conclusions

In our prior audit, we found that Center controls over leases were not adequate to ensure that Center and Plan leases were free of conflicts of interest and were obtained at the most reasonable cost. We also found that controls over renovations needed to be strengthened to reduce the State's costs for improvements to leased properties.

In our follow-up review, we found that Center officials have strengthened their space leasing practices by adopting most of the control procedures identified in our prior audit report. However, additional improvements are still necessary to help ensure that leases and related renovations are obtained at the most reasonable cost to the State.

Summary of Status of Implementation

Of the seven prior audit recommendations, we found that Center officials fully implemented five recommendations, partially implemented one recommendation and did not implement one recommendation.

Follow-up Observations

Recommendation 1

Strengthen space leasing practices by adopting the control procedures identified in this report. Reevaluate existing lease arrangements to ensure that terms and conditions are reasonable.

Status - Partially Implemented

Agency Action - As noted in our prior audit report, the Center had sought competitive bids in the negotiation of a space lease for the University Health Corporate Center (UHCC) in 1995. The Center is currently working on two new leases. The first lease would provide space for a SUNY Training Center. Center officials placed advertisements of notice to bidders in the local newspaper and the Contract Reporter. Three proposals were received in response to the advertisement. Center officials evaluated the sites, selected the one that best met needs and began negotiating the terms and conditions to lease the selected site.

Center officials also used competitive bidding to obtain proposals for additional parking space. Officials placed an advertisement in the Contract Reporter and also sent a formal request for proposal to two firms. However, only one firm submitted a proposal. Center officials have not yet finalized this lease. Center officials indicated to us that they cannot renegotiate existing leases until the leases expire, as they do not have cause to end these leases.

In July 1996, the Medical Service Groups comprising the Plan adopted their own leasing policy to address conflict of interest. The policy requires that, when developing space leasing arrangements, potential lessors must disclose if any officer or party owning or controlling more than 10 percent of that entities' stock is an officer or employee of the State or of a State public benefit corporation. If so, a bid process may be required unless there is the Plan's Governing Board determines that no bidding is needed based on appropriate and sufficient documentation.

Auditors' Comments - Center officials still need to adopt control procedures identified in the prior audit report pertaining to documenting the lease decision-making process and using leasing experts. All adopted procedures should be reduced to writing.

Recommendation 2

Determine if the State Ethics Law and/or SUNY Policy has been violated in any Center or Plan lease arrangements and take steps to correct any such violations.

Status - Fully Implemented

Agency Action - After receipt of our prior audit report, the New York State Ethics Commission (Commission) reviewed the matter of lease arrangements entered into by the Center and its physicians. In a letter dated May 8, 1997, to SUNY's Chancellor and the President of the Center, the Commission stated that it found that the practices at the Center raised both legal and ethical issues. The Commission noted that Center management, apparently motivated by a desire to obtain more convenient space arrangements than those suggested by SUNY System Administration or the Office of the State Comptroller, encouraged staff physicians to participate in a plan which placed them in potential violation of the Public Officers Law. The Commission further concluded that Center managers took actions that undermined the State's ethics laws and were inconsistent with what should be expected of those in leadership positions. The Commission decided, however, not to pursue the individual employees implicated because Center management encouraged the lease arrangements.

Recommendation 3

Consider alternative procedures for identifying and contracting for rental space, such as competitive bidding or the use of a third party in negotiating leases.

Status - Fully Implemented

Agency Action - As noted previously, Center officials have used competitive bidding to solicit proposals for its space leasing needs since our prior audit. Although they do not have written procedures specific to leasing, officials have indicated to us that they intend to utilize the control procedures mentioned in our audit report in their future leasing practices.

Recommendation 4

Establish renovation negotiation procedures that protect the State's interests, and use the services of professional personnel or third parties where practicable.

Status - Not Implemented

Agency Action - Center officials have not established written renovation negotiation procedures. Generally, officials do not believe that it is necessary to go beyond their in-house support personnel to negotiate renovation plans. While we note that the Center recently engaged the services of a mechanical engineering consulting firm to review the plans of the UHCC, Center officials told us that they are confident that their professional staff of registered architects, engineers, financial personnel and internal auditors possess the skills needed to protect the State's interests.

Auditors' Comments - Center officials should develop renovation negotiation procedures that protect the State's interests when renovations are made as part of a lease, and, where possible, use the services of professional personnel or third parties.

Recommendation 5

Obtain detailed documents to support planned renovation work.

Status - Fully Implemented

Agency Action - The August 1995 UHCC contract contained details to support the University's and the landlord's renovation work. Center officials told us that they closely monitored the landlord's progress against the documents. Center officials have indicated to us that they will continue to request detailed documents to support renovation work.

Recommendation 6

Ensure that the duration of leases and/or renewal rates are adequate to protect the State's investment in renovation work.

Status - Fully Implemented

Agency Action - Center officials indicated that the UHCC lease covers a period of ten years, which they believe adequately protects the State's investment in renovation work. Further, officials advised us that the training center lease will extend over a five year period. Officials also expect future leases to cover longer periods of time wherever this is appropriate considering all other fiscal and logistical circumstances.

Recommendation 7

Agree to pay finance charges at reasonable interest rates, at or near prime.

Status - Fully Implemented

Agency Action - The original UHCC lease contained a ten percent interest rate for the landlord's renovation work. An amendment to the contract in July 1996 reduced the interest rate to 5.75 percent. In addition, a subsequent contract for equipment and improvements to establish ambulatory care clinics at the UHCC cited an interest rate of 5.48 percent. We believe that in both cases the interest rates paid were reasonable and below the prime lending rate. Center officials have told us that it is their practice to try to obtain the least expensive lease rate available.

Major contributors to this report were Karen Bogucki, Richard Loveless and Tom Kulzer.

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 SUNY System Administration and the Health Science Center at Syracuse for the courtesies and cooperation extended to our staff during this review.

Yours truly,

Jerry Barber
Audit Director

cc: Robert L. King
Dr. Gregory L. Eastwood