

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2019-125
February 2019

LAKE-SUMTER STATE COLLEGE



Sherrill F. Norman, CPA
Auditor General

Board of Trustees and President

During the period January through December 2017, Dr. Stanley M. Sidor served as President of Lake-Sumter State College and the following individuals served as Members of the Board of Trustees:

| | <u>County</u> |
|---|---------------|
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| Timothy Morris | Lake |

Note: One Trustee position was vacant during the period.

The team leader was Yuling Liu, CPA, and the audit was supervised by Brenda C. Racis, CPA.

Please address inquiries regarding this report to Jaime N. Hoelscher, CPA, Audit Manager, by e-mail at jaimehoelscher@aud.state.fl.us or by telephone at (850) 412-2868.

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LAKE-SUMTER STATE COLLEGE

SUMMARY

This operational audit of the Lake-Sumter State College (College) focused on selected College processes and administrative activities and included a follow-up on findings noted in our report No. 2016-048. Our operational audit disclosed the following:

Finding 1: College personnel did not document a comparison of construction management entity (CME) pay requests to the CME subcontractor contracts prior to payment for the Science-Health Building, South Lake Campus Project (Project). The CME construction contract for the Project was \$13.2 million and Project expenses for subcontractor services during the 2017 calendar year totaled \$6.2 million.

Finding 2: College construction administration monitoring procedures for the Project did not include comparisons of the selected subcontractor bids to subcontractor contracts to verify that the CME used a competitive selection process to select subcontractors and that the selected bid and contract amounts agreed.

Finding 3: The College did not document verification that subcontractors were appropriately licensed before work commenced on the Project.

Finding 4: The College needs to establish policies and procedures for negotiating, monitoring, and documenting the reasonableness of CME general conditions costs.

Finding 5: College textbook and instructional materials affordability procedures need improvement.

Finding 6: The College paid four former employees a total of \$15,698 for accumulated unused sick leave that exceeded the limits set forth in State law.

Finding 7: Records documenting the College direct-support organization's use of property, facilities, and personal services could be improved.

BACKGROUND

Lake-Sumter State College (College) is under the general direction and control of the Florida Department of Education, Division of Florida Colleges, and is governed by State law and State Board of Education rules. A board of trustees (Board) governs and operates the College. The Board constitutes a corporation and is composed of nine members appointed by the Governor and confirmed by the Senate. The College President serves as the Executive Officer and the Corporate Secretary of the Board and is responsible for the operation and administration of the College.

The College has campuses in Clermont, Leesburg, and Sumterville. Additionally, credit and noncredit classes are offered in public schools and other locations throughout Lake and Sumter Counties.

FINDINGS AND RECOMMENDATIONS

Finding 1: Monitoring Construction Project Pay Requests

Under the construction management entity (CME) process, contractor profit and overhead are contractually agreed upon, and the CME is responsible for all scheduling and coordination in both the design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The CME may be required to offer a guaranteed maximum price (GMP), which allows for the difference between the actual cost of the project and the GMP amount, or the net cost savings, to be returned to the College.

During the 2017 calendar year, the College had only one GMP contract, which was for the Science-Health Building, South Lake Campus Project totaling \$13.2 million. To evaluate College monitoring controls during that calendar year over CME expenses totaling \$7.6 million,¹ we inquired of College personnel and examined College records supporting selected CME expenses totaling \$5.8 million, including \$5 million for subcontractor services, \$500,000 for general conditions costs, and \$300,000 for CME overhead profit.

The Vice President of Administration and Financial Services indicated that, prior to payment, the Director of Facilities was responsible for comparing the CME pay requests, subcontractor invoices, and general conditions expenses to the GMP contract and signing the pay request. Then, the Vice President signed the receiving report to approve the request for payment. However, although we requested, College records were not provided to evidence that College personnel obtained copies of subcontractor contracts or compared CME pay requests to subcontractor contracts and invoices. Additionally, as discussed in Finding 4, College personnel had not compared certain general conditions labor costs billed in the CME pay requests to appropriate supporting documentation.

We requested that the College obtain from the CME selected subcontractor contracts totaling \$4.6 million to support CME pay requests for the Science-Health Building, South Lake Campus Project. Our review of the documentation provided disclosed that the selected CME pay requests were consistent with the GMP contract and the subcontractor contracts; however, our procedures cannot substitute for the College's responsibility to properly monitor CME payments for subcontractor services.

Absent a documented comparison of each line on the schedule of values for each CME pay request to applicable supporting documentation, there is an increased risk that the College may overpay for services and may not realize maximum cost savings under GMP contracts.

Recommendation: The College should enhance procedures for monitoring CME pay requests to include a documented comparison of the cost items in the CME pay requests to subcontractor contracts before payment is made to the CME.

Follow-Up to Management's Response

Management's response states that "we conveyed responsibility to the CME to establish a system to plan effectively and to monitor and control the funds available for the project. . . . We request further

¹ During the 2017 calendar year, CME expenses included \$6.2 million for subcontractor services.

clarification on the interpretation of this statute [Section 1013.45, Florida Statutes] to mitigate future findings.” Notwithstanding this response, the point of our finding is that, as GMP contracts allow the College to achieve cost savings for the difference between the actual cost of the project and the GMP amount, comparisons by College personnel of the cost items in the CME pay requests to subcontractor contracts before payments are made could help the College realize maximum cost savings under GMP contracts.

Finding 2: Subcontractor Selection

The CME construction contract for the Science-Health Building, South Lake Campus Project required the CME to solicit bids and award subcontracts, as necessary. Good business practices dictate that College personnel monitor the subcontractor selection process to ensure services are obtained at the lowest cost consistent with acceptable quality and to realize maximum cost savings under the GMP contract.

College personnel indicated that a member of College management attended the CME bid openings to select subcontractors; however, although we requested, College records were not provided to document that attendance and College procedures had not been established to require and ensure College personnel document their attendance at subcontractor bid openings. Also, College records did not demonstrate a comparison by College personnel of selected subcontractor bids listed on the bid tabulation sheets to the subcontractor contracts to verify that the selected subcontractor bid and contract amounts agreed. Instead, College personnel stated that the CME was responsible for the subcontractor selection process and they relied on the CME to ensure subcontractors were properly selected. However, College reliance on the CME subcontractor selection process provides limited assurance absent College efforts to evaluate the effectiveness of that process.

We requested for examination the selected subcontractor bids and contracts for all 22 subcontractors who, according to the CME pay requests, provided services during the 2017 calendar year for the Science Health Building, South Lake Campus Project. College personnel indicated that the CME was responsible for executing subcontractor contracts and College personnel attempted to obtain the individual bid proposals and contracts from the CME for our review. We found that the CME awarded:

- Subcontracts to 4 subcontractors who were listed on the bid tabulation sheets but were not the lowest bidders. We also found that 2 other subcontractors were used who were not listed on the bid tabulation sheets. In total, these 6 subcontractors received \$230,278 more than the lowest bid amounts and College records did not initially evidence why these subcontractors were used.

Subsequent to our inquiries, College personnel contacted the CME and obtained documentation that justified the selection of the 6 subcontractors. For example, the low bidder could not meet the scope or completion date requirements and the subcontractor selected met the requirements at the lowest cost.

- A subcontract of \$83,300 to a subcontractor; however, the CME pay requests for the subcontractor services totaled \$86,600. In response to our inquiry, College personnel indicated that the subcontractor’s scope of work was expanded by \$3,300. However, although we requested, College records were not provided to support the scope of work and cost changes.

Without evidence of bid opening attendance by College personnel and documented comparisons of selected subcontractor bids and contracts, the risk increases that subcontractor services may not be

obtained at the lowest cost consistent with acceptable quality, and the College may not realize maximum cost savings under a GMP contract.

Recommendation: The College should establish procedures that require and ensure College personnel document their attendance at subcontractor bid openings; verifications that CMEs select, and contract with, the subcontractor with the lowest bid consistent with acceptable quality; and confirmations that selected bid amounts agree with subcontractor contract amounts.

Follow-Up to Management’s Response

Management’s response states that “a secondary review of subcontractor bids to subcontractor contracts prior to contract award by College personnel was not undertaken as it was our understanding that this review had been delegated to the CME. We request further clarification on the interpretation of this statute [Section 1013.45, Florida Statutes] to mitigate future findings.” Notwithstanding this response, College personnel efforts to monitor the subcontractor selection process and confirmations that selected bid amounts agree with subcontractor contract amounts would provide additional assurance that subcontractor services are obtained at the lowest cost consistent with acceptable quality and that maximum cost savings under the GMP contract are realized.

Finding 3: Subcontractor Licenses

State law² provides that a CME must consist of, or contract with, licensed or registered professionals for the specific fields or areas of construction to be performed. State law³ establishes certain certification requirements for persons engaged in construction contracting, including licensing requirements for specialty contractors such as electrical, air conditioning, plumbing, and roofing contractors.

Our examination of College records supporting the administration of the Science-Health Building, South Lake Campus Project disclosed that College personnel had not documented verification that Project subcontractors were properly licensed. From the population of 22 subcontractors who provided services for the Project, we requested for examination College records supporting verification of the licenses for 7 subcontractors. In response to our request, College personnel contacted and obtained copies of applicable licenses from the CME for 2 subcontractors but not for the other 5 subcontractors. We extended our procedures by performing a license search on the Florida Department of Business and Professional Regulation’s Web site and verified that the 5 subcontractors were properly licensed; however, our procedures do not substitute for the College’s responsibility to implement adequate internal controls over subcontractor services.

Timely documented verification that subcontractors are appropriately licensed provides the College additional assurance that the subcontractors who will be working on College facilities meet the qualifications to perform the work for which they are engaged.

Recommendation: The College should enhance procedures to require and document verification of subcontractor licenses before the subcontractors commence work on College facilities.

² Section 1013.45(1)(c), Florida Statutes.

³ Chapter 489, Florida Statutes.

Finding 4: General Conditions Costs

GMP contracts typically include provisions for general conditions costs that are not directly associated with a particular activity and may include costs relating to labor supervision, temporary offices and utilities, travel expenses, clean-up, permits, and testing. Established policies and procedures that provide appropriate guidance for effectively negotiating, monitoring, and documenting the reasonableness of general conditions costs are essential to ensure that potential cost savings are realized under GMP contracts. For contracts that include general conditions costs, appropriate policies and procedures should include, for example:

- Comparing proposed general conditions costs to those of similar projects, including similar projects at other colleges.
- Negotiating with the CME to determine a reasonable amount for total budgeted general conditions costs.
- Verifying that the general conditions costs are supported by detailed documentation, such as CME payroll records and CME-paid invoices and confirming that the costs comply with the GMP contract.

The CME GMP contract for the Science-Health Building, South Lake Campus Project included provisions for general conditions costs, which were identified in the contract as “staff cost and construction requirements” totaling \$1,027,171. The CME pay requests referenced these costs as they were incurred, including \$618,305 for personnel costs and \$408,866 for non-personnel costs. Although we requested, College records were not provided to evidence the methodology used and factors considered during the negotiation process to establish the reasonableness of the Project’s general conditions costs and College policies and procedures had not been established to evidence the methodology used and factors considered. Our examination of College records disclosed that the College had obtained vendor invoices from the CME to support general conditions cost reimbursements for non-personnel costs, such as information technology, utility, and dumpster services. However, according to College personnel, the College did not obtain detailed documentation such as CME payroll records to support the propriety of the personnel-related costs included in the general conditions costs that were billed by the CME and paid by the College.

Absent appropriate policies and procedures, the College may be limited in its ability to monitor the reasonableness of personnel-related general conditions costs, determine the propriety of CME pay requests for those costs, and realize cost savings associated with such costs in GMP contracts.

Recommendation: The College should establish policies and procedures for negotiating, monitoring, and documenting the reasonableness of general conditions costs. Such policies and procedures should require documentation of the methodology used and factors considered in negotiating general conditions costs, and receipt and review of sufficiently detailed documentation supporting the personnel-related general conditions costs included in CME pay requests.

Finding 5: Textbook Affordability

State law⁴ requires each college to post prominently in the course registration system and on its Web site, as early as is feasible, but not less than 45 days before the first day of class for each term, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of all courses and course sections offered at the institution during the upcoming term.

The College adopted 255 textbooks and instructional materials during the Spring 2017 Semester and 290 textbooks and instructional materials during the Fall 2017 Semester. The College contracted with a vendor to manage and operate the College Bookstore; however, although we requested, College records were not provided to demonstrate the date that the lists of required and recommended textbooks and instructional materials were posted in the course registration system and on the College Book Store Web site. In response to our inquiries, College personnel indicated that all textbook information was posted on the College Website 45 days prior to the first day of classes and that the College Bookstore database did not maintain the posting dates for previous semesters.

Without evidence of the timely postings for at least 95 percent of all courses and course sections offered at the College during the upcoming term, the College cannot demonstrate compliance with State law and students may not have sufficient time to gain an understanding of course requirements, consider purchase options, and potentially limit their costs.

Recommendation: To demonstrate compliance with State law, the College should document that a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of all courses and course sections offered at the College during the upcoming term is prominently posted in the course registration system and on its Web site, as early as feasible, but at least 45 days before the first day of class for each term.

Finding 6: Terminal Sick Leave Pay

State law⁵ permits colleges to provide terminal pay for accumulated unused sick leave to full-time instructional staff and educational support employees and specifies the various percentages that may be paid based on years of service. State law⁶ defines an “educational support employee” as any person employed by a Florida College System institution as an education or administrative paraprofessional; a member of the operations, maintenance, or comparable department; or a secretary, clerical, or comparable level support employees.

Pursuant to State law,⁷ colleges are authorized to provide terminal pay for accumulated unused sick leave to any employee other than instructional staff or educational support employees at an amount equal to one-fourth of the employee’s unused sick leave or 60 days of the employee’s pay, whichever amount is less, for unused sick leave accumulated on or after July 1, 2001. For unused sick leave accumulated

⁴ Section 1004.085(6), Florida Statutes.

⁵ Section 1012.865(2)(d), Florida Statutes.

⁶ Section 1012.865(1)(a), Florida Statutes.

⁷ Section 1012.865(2)(e), Florida Statutes.

before July 1, 2001, terminal pay is to be made pursuant to board of trustees' rules or policies in effect at that time.

College administrative procedures⁸ provide that qualified full-time and regular employees, except for the President and Vice Presidents, are to be paid for accumulated sick leave after being credited with 10 years of service. The payment amount is to be calculated by using the current daily rate of pay multiplied by 50 percent times the number of days of accumulated and unused sick leave. However, such calculations do not recognize the limitations imposed by State law for terminal sick leave payments to employees other than instructional staff or educational support staff.

The College made terminal vacation and sick leave payments totaling \$345,287 for the 2017 calendar year for a total of 46 employees, including \$184,714 paid for accumulated and unused sick leave. Our examination of College records supporting terminal leave payments totaling \$308,305 for 20 selected employees disclosed that:

- The College calculated terminal leave payments for three non-instructional and non-educational support employees (Manager of Foundation Development, Manager of the Upward Bound Program, and Assistant Director of the Office for Student Development) hired after July 1, 2001, using 50 percent of the individuals' accumulated and unused sick leave and paid the individuals a total of \$11,558 for terminal sick leave. However, because the College did not limit the calculations and related payments to one-fourth of the employees' unused sick leave accumulated on or after July 1, 2001, which for each of these former employees was less than 60 days of pay, these individuals were overpaid a total of \$5,779.
- The College calculated terminal leave payments for one non-instructional and non-educational support employee (Director of Financial Aid) hired prior to July 1, 2001, using 50 percent of the individual's accumulated and unused sick leave and paid the individual \$25,824 for terminal sick leave. Of this amount, \$5,986 related to sick leave accumulated prior to July 1, 2001, and \$19,838 related to sick leave accumulated on and after July 1, 2001. However, because the College did not limit the calculation and related payment for the sick leave accumulated after July 1, 2001, to one-fourth of the unused sick leave, which was less than 60 days of the employee's pay, the individual was overpaid \$9,919 for the unused sick leave accumulated after July 1, 2001.

In response to our inquiries regarding the terminal leave payments, College personnel indicated that all regular full-time staff, other than the President and Vice Presidents and instructional employees, are considered to be educational support employees for purposes of terminal leave payments. Notwithstanding this response, the four employee titles and related job descriptions did not meet the statutory definition of an educational support employee.

Recommendation: The Board should revise College administrative procedures to limit terminal pay for accumulated unused sick leave in accordance with State law. The College should also take action to remedy the overpayments totaling \$15,698.

Follow-Up to Management's Response

Management's response states that "the College's procedure follows the terminal pay guidance outlined in Memorandum Number 04-12 from J. David Armstrong, Jr., Chancellor, Community Colleges and Workforce Education, Florida Department of Education, dated March 31, 2004. . . . Consistent with the

⁸ LSSC Administrative Procedure PRO 5-32, *Terminal Pay*.

discretion granted to community colleges in the memorandum, the College considered the four employees cited in the report as educational support employees. . . . We request further clarification on the interpretation of this statute to mitigate future findings.” Notwithstanding the discretion granted to colleges in the Chancellor Memorandum, College administrative procedures allow all noninstructional employees, other than the President and Vice Presidents, to be considered educational support employees as defined in Section 1012.865, Florida Statutes. Therefore, we continue to recommend that the Board revise College administrative procedures to limit terminal pay for accumulated unused sick leave in accordance with State law. Furthermore, we recommend that the College seek guidance from the Florida Department of Education to ensure that College administrative procedures are consistent with the discretion intended to be granted to colleges by the Chancellor Memorandum.

Finding 7: Direct-Support Organization

To promote accountability over College property, facility, and personal services use, it is important that public records prescribe the conditions for such use, document appropriate approval before the use occurs, and demonstrate appropriate use. Such records help document authorization for the use, demonstrate the reasonableness of the value associated with that use, and enhance government transparency.

State law⁹ provides that a direct-support organization (DSO) is organized and operated exclusively to receive, hold, invest, and administer property and to make expenses to, or for the benefit of, the Florida College System institution. Additionally, State law¹⁰ authorizes the College Board of Trustees (Board) to permit the use of College property, facilities, and personal services by a DSO, and to prescribe by rule any condition with which a DSO must comply for such use.

The Board approved the Lake-Sumter State College Foundation, Inc. (Foundation) as a DSO and the Foundation routinely receives and uses charitable contributions for the benefit of the College. Board policies and procedures require DSOs to submit a letter each year to the Board confirming that the organization is a Florida non-profit corporation in good standing. The Board’s annual action to acknowledge and certify the Foundation as a DSO entitles the DSO to make reasonable use of College property, facilities, and personal services provided that such use is arranged through the Vice President of Administrative and Financial Services liaison named by the Board Chairman and has the approval of the College President or his designee.

As part of our audit, we interviewed College personnel, requested and examined College records related to the Foundation, and found that during the 2017 calendar year:

- The College provided to the Foundation personal services totaling \$247,246, which were primarily for services of 4 positions that spent 100 percent of time and effort on Foundation matters. Based on the job descriptions, the employees manage Foundation activities and resources, administer Foundation scholarship awards to College students, and provide program support to various College operations.

⁹ Section 1004.70(1)(a), Florida Statutes.

¹⁰ Section 1004.70(3), Florida Statutes.

- The Foundation used office space on the College's campus. The related use of facilities and properties was valued at \$32,234 based on square footage of the office space.
- The associated value of the College resources provided was disclosed on the Foundation Federal IRS Return of Organization Exempt from Income Tax Form 990 for 2016 and in the Foundation audited financial statements for 2017.

Although College policies and procedures establish conditions for DSO use of College property, facilities, and personal services, we noted that College records associated with such use could be improved by obtaining:

- Board approval of the anticipated DSO use and the estimated value of the associated College resources before the use occurs.
- Confirmations from DSO management affirming that College resources were used only for purposes approved by the Board.

Approvals by the Board of Trustees and documentation affirming the actual use of College resources would provide additional assurance that DSO use of College resources is consistent with the Board's intent and enhance transparency for such use.

Recommendation: We recommend that:

- **The College document Board consideration and approval of the DSO's anticipated use of College resources, at least on an annual basis, before the use occurs. To enhance government transparency, Board approval documentation should identify the positions of the employees who will provide personal services, the square footage of the office space and related buildings that will be used by the DSO, and the value of such use.**
- **The College obtain confirmations from DSO management affirming that College resources were used only for purposes approved by the Board.**

PRIOR AUDIT FOLLOW-UP

The College had taken corrective actions for findings included in our report No. 2016-048.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from May 2018 through September 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identify weaknesses in those controls.
- Determine whether management had taken corrective actions for findings included in our report No. 2016-048.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, weaknesses in management's internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the audit period of January 2017 through December 2017 and selected College actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of management, staff, and vendors and, as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed College information technology (IT) policies and procedures to determine whether the policies and procedures addressed certain important IT control functions, such as security, systems development and maintenance, and disaster recovery.
- Evaluated College procedures for maintaining and reviewing employee access to IT data and resources. We examined database and finance and human resources application access privileges during the audit period for 14 of the 485 employees, to determine the appropriateness and necessity of the access privileges based on the employees' job duties and user account functions and whether the access privileges adequately prevented the performance of incompatible duties.
- Evaluated College procedures that prohibit former employees' access to College IT data and resources. We examined the access privileges for the 51 employees who separated from College employment during the audit period to determine whether their access privileges had been timely deactivated.
- Evaluated College procedures for protecting student social security numbers (SSNs). We examined College records supporting the access privileges granted to 24 employees selected from the population of 61 employees who had access to student SSNs during the audit period to determine the appropriateness and necessity of the access privileges based on the employee's assigned job responsibilities. We also examined College records to determine whether the College had provided individuals with written statements of the purpose for collecting their SSNs.
- Examined College records for the audit period to determine whether the College informed students and employees at orientation and on its Web site of the existence of the Florida Department of Law Enforcement sexual predator and sexual offender registry Web site and the toll-free telephone number that gives access to sexual predator and sexual offender public information as required by Section 1006.695, Florida Statutes.
- Examined College records supporting payments and transfers totaling \$32,568 made during the audit period from the College for its direct-support organization (DSO) to determine whether the transactions were authorized as described in Section 1004.70(1)(a)2., (3), and (4), Florida Statutes.
- Examined College records to determine whether the Board had prescribed by rule, pursuant to Section 1004.70(3)(b), Florida Statutes, the conditions with which the DSO must comply in order to use College property, facilities, and personal services and whether the Board documented consideration and approval of anticipated property, facilities, and personal services provided to the DSO and the related costs.
- From the population of 5,633 students enrolled as Florida residents during the audit period, examined College records for 30 selected students to determine whether the College documented Florida residency in compliance with Section 1009.21, Florida Statutes.
- Reviewed College procedures to determine whether distance learning fees totaling \$381,496 during the audit period were assessed, collected, and separately accounted for in accordance with Section 1009.23(16)(a) and (b), Florida Statutes.
- Examined College records supporting the College's five auxiliary contracts, which generated revenue totaling \$188,684 during the audit period, to determine whether the College properly monitored compliance with the contract terms for fees, insurance, and other provisions. Also, we performed analytical procedures to determine whether College auxiliary services were self-supporting.
- Examined supporting documentation for all 545 textbooks added during Spring and Fall 2017 Semesters to determine whether the College textbook affordability procedures complied with Section 1004.085, Florida Statutes.

- From the compensation payments totaling \$21.3 million during the audit period, selected 30 payroll transactions totaling \$92,128 and examined College records to determine the accuracy of the rate of pay, the validity of employment contracts, whether the employees met the required qualifications, whether performance evaluations were completed, and the accuracy of leave records.
- Evaluated Board policies and College procedures for payments of accumulated annual and sick leave (terminal leave pay) to determine whether the policies and procedures promoted compliance with State law and Board policies. Specifically, from the population of 46 employees who separated from College employment during the audit period and were paid \$345,287 for terminal leave, we selected 20 employees with terminal payments totaling \$308,305 and examined the supporting records to determine compliance with Sections 110.122 and 1012.865, Florida Statutes, and Board policies.
- Examined severance pay provisions in 6 employee contracts, including the President's contract, to determine whether the provisions complied with Section 215.425(4)(a), Florida Statutes.
- Examined College records to determine whether the amounts paid to the President, who received compensation totaling \$309,919 during the audit period, complied with the applicable provisions and limits established in Sections 1012.885 and 1012.886, Florida Statutes.
- Evaluated Board policies and College procedures to ensure health insurance was provided only to eligible employees, retirees, and dependents and that such insurance was timely canceled upon an employee's separation from College employment. Also, we determined whether the College had adequate procedures for reconciling health insurance costs to employee, retiree, and Board-approved contributions.
- Examined College records to determine whether selected expenses were reasonable, correctly recorded, and adequately documented; for a valid College purpose; properly authorized and approved; and in compliance with applicable laws, contract terms, and Board policies. Specifically, from the population of expenses totaling \$30.5 million for the audit period, we examined College records supporting:
 - 30 selected payments for general expenses totaling \$146,782.
 - 20 selected payments for contractual services totaling \$256,155.
- Examined College records to determine whether bookstore services were procured on a periodic basis using a competitive selection process.
- From the population of 1,408 purchasing card (P-card) and vendor card transactions totaling \$249,834 during the audit period, examined College records supporting 30 transactions totaling \$53,838 to determine whether the P-card and vendor card programs were administered in accordance with Board policies and College procedures and transactions were not of a personal nature.
- Examined P-card records for the 7 cardholders who separated from College employment during the audit period to determine whether the College timely canceled the cardholders' P-cards.
- From the payments totaling \$21,676 during the audit period to employees for other than travel and compensation, examined 12 selected payments totaling \$11,094 to determine whether such payments were reasonable, adequately supported, for valid College purposes, and whether such payments were related to employees doing business with the College, contrary to Section 112.313(3), Florida Statutes.
- For the one major construction project with expenses totaling \$10.7 million and in progress during the audit period, selected 8 payments totaling \$5.9 million and examined College records to determine whether the payments were made in accordance with contract terms and conditions, Board policies and College procedures, and provisions of applicable State laws and rules.

Additionally, we determined whether the College process for selecting design professionals and construction managers was in accordance with State law; the College adequately monitored the selection process of subcontractors; the Board had adopted a policy establishing minimum insurance coverage requirements for design professionals; and design professionals provided evidence of required insurance.

- From the population of 82 industry certifications reported for performance funding that were attained by students during the audit period, examined 23 industry certifications to determine whether the College maintained documentation for student attainment of the industry certifications.
- Reviewed College records and made inquiries to determine whether the College evaluated the effectiveness and suitability of software applications during the audit period prior to purchase.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each College on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



February 4, 2019

Sherrill F. Norman
Auditor General
State of Florida
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman,

Lake-Sumter State College is in receipt of the list of preliminary and tentative findings and recommendations from the recently completed operational audit. We have completed a full review of the initial report and submit the following analysis for your consideration.

Finding 1: College personnel did not document a comparison of construction management entity (CME) pay requests to the CME subcontractor contracts prior to payment for the Science-Health Building, South Lake Campus Project (Project). The CME construction contract for the Project was \$13.2 million and Project expenditures for subcontractor services totaled \$7.5 million.

In accordance with the statute below, the District Board of Trustees entered into a Guaranteed Maximum Price (GMP) contract with a Construction Management Entity (CME). It was our understanding that we conveyed responsibility to the CME to establish a system to plan effectively and to monitor and control the funds available for the project, cash flow, costs, change orders and other major financial factors by comparison of budget, estimate, total commitment, amounts invoiced and amounts payable. A secondary review of subcontractor contracts prior to payment by College personnel was not undertaken, as it was our understanding that this review had been delegated to the CME. We request further clarification on the interpretation of this statute to mitigate future findings.

FL Statute [1013.45 Educational facilities contracting and construction techniques.](#) states that

“Boards may employ procedures to contract for construction of new facilities [...]

c) Selecting a construction management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would be responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The construction

management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law.

(d) Selecting a program management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would act as the agent of the board and would be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. [...]"

Finding 2: College construction administration monitoring procedures for the Project did not include comparisons of the selected subcontractor bids to subcontractor contracts to verify that the CME used a competitive selection process to select subcontractors and that the selected bid and contract amounts agreed. Further, College records were not provided to document attendance at CME bid openings.

In accordance with the statute below, the College's contract with the CME specifically delegated the responsibility for solicitation of bids and awarding of contracts to the CME. Contract section 2.4 4., "Solicitation of Bids", addresses the process for solicitation of bids and awarding of contracts.

FL Statute [1013.45 Educational facilities contracting and construction techniques.](#)— states that

"Boards may employ procedures to contract for construction of new facilities [...]"

c) Selecting a construction management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would be responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law.

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The audit report acknowledges that explanations were provided for all instances where subcontractors were awarded the work but were not the lowest bidders. The bid tabulations at a bid opening on a project of this scale logs the price and package quoted for work, but does not log the extent to which all required documentation was provided. A qualitative review is normally completed later to determine whether the full scope of work is addressed and all documentation is received.

Bids for this construction project were solicited in June of 2016, a year before the actual work commenced. Contracts were not signed until August 2016 and September 2016. In some cases, the subcontractor did not commence work until 2017. Changes in scope, price and contractor availability may occur between the solicitation of bids and award of contract and, the date the work commences.

A secondary review of subcontractor bids to subcontractor contracts prior to contract award by College personnel was not undertaken as it was our understanding that this review had been delegated to the CME. We request further clarification on the interpretation of this statute to mitigate future findings.

The College understands that attendance at CME bid openings is required and will improve record-keeping procedures to document attendance by College personnel.

Finding 3: The College did not document verification that subcontractors were appropriately licensed before work commenced on the Project.

The statute referenced below provides for delegation of responsibility to the CME to procure construction services. The statute further stipulates that the CME must contract with licensed professionals. Although it was our understanding that the responsibility for ensuring only licensed subcontractors rested with the CME, the College will include a requirement in all future construction and remodel or renovation projects that the Bid package must include a copy of the subcontractor's license, and that the bid tabulation will need to reflect this requirement.

FL Statute [1013.45 Educational facilities contracting and construction techniques.](#)— states that

“Boards may employ procedures to contract for construction of new facilities [...]

c) Selecting a construction management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would be responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project. The construction management entity must consist of or contract with licensed or registered professionals for the specific fields or areas of construction to be performed, as required by law.

(d) Selecting a program management entity, pursuant to s. 255.103 or the process provided by s. 287.055, that would act as the agent of the board and would be responsible for schedule control, cost control, and coordination in providing or procuring planning, design, and construction services. The program management entity must consist of or contract with licensed or registered professionals for the specific areas of design or construction to be performed as required by law. [...]

We request further clarification on the interpretation of this statute to mitigate future findings.

Finding 4: The College needs to establish policies and procedures for negotiating, monitoring, and documenting the reasonableness of CME general conditions costs.

The District Board of Trustees awarded the Construction Project to the CME based on the bid submitted in 2015.

The contract provided for an \$80,236 pre-construction fee for work in preparation of the construction phase and a Construction Manager Fee (see section 8.1.3 of the contract for a detailed listing of cost and expenses included in the fee).

The general condition cost usually covers project management, bonds and insurance, site conditions, field offices and construction supplies.

The contract did not require the CME to provide a detailed breakdown specifically on payroll cost. The CME was subsequently unable to provide a breakdown.

We acknowledge that no comparison was made to general condition cost of projects of a similar size or scope at neighboring institutions.

For any future projects, the College will require a detailed breakdown of general condition cost as it pertains to payroll expenses and ensure that:

- Each staff position is listed with billing rate, field or office designation and exempt status;
- Exempt personnel billing may not exceed 40 hours per week;
- Any overtime has to be owner authorized;
- Annual increases (if applicable) are defined and not exceed the local CPI;
- Billing rates are verified with the market to ensure that they are not excessive; and
- Billing rates are all inclusive of the labor cost. Labor burden should be defined with a list of each burden component.

Finding 5: College textbook and instructional materials affordability procedures need improvement. College records were not provided to demonstrate the date that the lists of required and recommended text books and materials were posted in the course registration system and on the College Book Store website.

The College's bookstore operator, Follett, publishes the list of required and recommended textbooks and materials in advance of each enrollment period. The bookstore activates a feature that allows the required and recommended textbook links to be live on the "Class Search" feature on the LSSC website, however, the bookstore operator does not archive the load files with a timestamp of the publication date.

The College will implement a process by which the exact date of activation is recorded for each enrollment period.

Finding 6: The College made payments of terminal vacation and sick leave payments to non-educational support employees in excess of State law.

The College considers all regular full-time staff, other than the President and Vice Presidents and instructional employees to be educational support employees for purposes of terminal leave payments.

The College's procedures provide that qualified full-time regular employees, except for the President and Vice Presidents, are to be paid for accumulated sick leave after being credited with 10 years of service. The payment amount is to be calculated by using the current hourly rate of pay multiplied by 50 percent times the number of hours of accumulated and unused sick leave.

The College's procedure follows the terminal pay guidance outlined in Memorandum Number 04-12 from J. David Armstrong, Jr., Chancellor, Community Colleges and Workforce Education, Florida Department of Education, dated March 31, 2004 (attached).

The following is stated in the memorandum:

- Section 1012.865(2), Florida Statutes, authorizes boards of trustees of community colleges to provide for terminal pay for accumulated unused sick leave to be paid to any full-time employee of a community college.
- Section 1012.865(2)(d) provides for terminal pay for instructional staff and educational support employees.
- Section 1012.865(2)(e) provides for terminal pay for employees "other than instructional staff and educational support employees."
- The maximum allowable amount to be paid to employees under Section 1012.865(2)(e) is significantly less than the amount allowed under Section 1012.865(2)(d).
- Because the statutes do not clearly define which non-instructional employees are "educational support employees" and which are employees "other than instructional staff and educational support employees," there has been some confusion, and colleges have been left to interpret the applicability of the statutes at the local level.

Chancellor Armstrong states that because of this confusion, his office was asked to provide clarifications to the colleges about "staff positions and guidelines to be used by the College to calculate terminal pay for accumulated sick leave to ensure that terminal pay is being paid in conformity with Section 1012.865, Florida Statutes." The clarification provided was as follows:

"Section 1012.865(1)(a), Florida Statutes, defines an educational support employee as, "...any person employed by a community college as an education administrative paraprofessional; a member of the operations, maintenance, or comparable department; or a secretary, clerical, or comparable level support employee." Every college in the system is unique in its mission and organizational structure. It is difficult to always tell what responsibilities a position has simply by its title. A dean at one institution might have a fairly narrow academic focus, while a dean at another institution might have broad college-wide administrative responsibilities. For this reason, the Division of Community Colleges has maintained that the local college is in the best position to determine which employees fall into the category of "educational support employees" and which fall into

the category of employees “other than instructional staff and educational support employees.”

In this memorandum Chancellor Armstrong states that his office worked with the Council of Business Affairs to develop the following language for guidance for such terminal pay classification:

“Since the duties of certain administrative employees vary significantly depending upon the size and organizational structure of the college, it is difficult to identify a particular title or even a class of employment that would always be considered staff other than instructional or educational support employees. When this section of the statute was first implemented, the college business officers discussed how to comply and generally agreed that employees paid out of the 510XX general ledger codes should always be considered staff other than instructional or educational support employees for purposes of compliance, but that the colleges, at the discretion of their local boards of trustees, could identify additional codes to be included as long as all employees paid from that code were treated consistently.”

Consistent with the discretion granted to community colleges in the memorandum, the College considered the four employees cited in the report as educational support employees and did not pay them out of the 510XXX general ledger.

We request further clarification on the interpretation of this statute to mitigate future findings.

Finding 7: Records documenting the College direct-support organization’s use of property, facilities, and personal services could be improved.

The salaries of the Direct Support Organization (DSO) staff and use of DSO facilities are included in the College’s Annual Operating Budget and approved by the District Board of Trustees.

The College will follow the audit recommendation and show a separate summary of DSO staff salaries and the value of the use of College property and resources for approval by the Board of Trustees with the Annual Operating Budget.

The College will obtain written confirmations from DSO management affirming that College resources were used only for purposes approved by the Board.

In closing, we appreciate the opportunity to review and prepare a response to the findings and recommendations prepared by the audit team. We are committed to improving our processes and procedures to improve the efficient delivery of services and instruction to our students and the surrounding community.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stan Sidor".

Dr. Stanley Sidor
President
Lake-Sumter State College

FLORIDA DEPARTMENT OF EDUCATION



JIM HORNE
Commissioner of Education



Memorandum Number 04-12

March 31, 2004

MEMORANDUM

TO: Community College Presidents
FROM: J. David Armstrong, Jr.
SUBJECT: Terminal Pay

Section 1012.865(2), Florida Statutes, authorizes boards of trustees of community colleges to provide for terminal pay for accumulated unused sick leave to be paid to any full-time employee of a community college. Section 1012.865(2)(d) provides for terminal pay for instructional staff and educational support employees. Section 1012.865(2)(e) provides for terminal pay for employees "other than instructional staff and educational support employees." The maximum allowable amount to be paid to employees under Section 1012.865(2)(e) is significantly less than the amount allowed under Section 1012.865(2)(d). Because the statutes do not clearly define which non-instructional employees are "educational support employees" and which are employees "other than instructional staff and educational support employees," there has been some confusion, and colleges have been left to interpret the applicability of the statutes at the local level.

In several recent operational audits, the Office of the Auditor General questioned the basis used by the colleges for not including certain positions as staff "other than instructional or educational support employees" for purposes of calculating terminal pay for accumulated sick leave. The auditors recommended that the colleges seek clarification from the Division of Community Colleges regarding the staff positions and guidelines to be used by the College to calculate terminal pay for accumulated sick leave to ensure that terminal pay is being paid in conformity with Section 1012.865, Florida Statutes.

J. DAVID ARMSTRONG, JR.
Chancellor, Community Colleges and Workforce Education

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Memorandum Number 04-12
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The purpose of this memo is to provide such clarification.

Section 1012.865(1)(a), Florida Statutes, defines an educational support employee as, “. . . any person employed by a community college as an education administrative paraprofessional; a member of the operations, maintenance, or comparable department; or a secretary, clerical, or comparable level support employee.” Every college in the system is unique in its mission and organizational structure. It is difficult to always tell what responsibilities a position has simply by its title. A dean at one institution might have a fairly narrow academic focus, while a dean at another institution might have broad college-wide administrative responsibilities. For this reason, the Division of Community Colleges has maintained that the local college is in the best position to determine which employees fall into the category of “educational support employees” and which fall into the category of employees “other than instructional staff and educational support employees.” However, in light of the recent audit criticism, I directed my staff to work with the Council of Business Affairs to develop clarifying language that can be added to the *Accounting Manual* as guidance for the colleges to provide some consistency in classification.

My staff worked with the Council of Business Affairs to develop the following language as guidance for such terminal pay classification. The Council approved the language at its February 2004 meeting, with a recommendation that the *Accounting Manual* be amended to reflect such guidance. The approved language was:

Since the duties of certain administrative employees vary significantly depending upon the size and organizational structure of the college, it is difficult to identify a particular title or even a class of employment that would always be considered staff other than instructional or educational support employees. When this section of the statute was first implemented, the college business officers discussed how to comply and generally agreed that employees paid out of the 510XX general ledger codes should always be considered staff other than instructional or educational support employees for purposes of compliance, but that the colleges, at the discretion of their local boards of trustees, could identify additional codes to be included as long as all employees paid from that code were treated consistently.

Language consistent with the above will be incorporated into the 2004 version of the *Accounting Manual* which will be submitted to the Council of Presidents at its first meeting following the June Council of Business Affairs meeting.

The Division of Community Colleges believes that this guidance will provide the consistency in classifying employees “other than instructional staff and educational support employees” contemplated by the statute while leaving the colleges some discretion in determining which additional employees should fall into that classification.

Please work with your business officers and human resource officers to ensure that your institution’s classification policies are consistent with this guidance. Any questions related to this memorandum should be directed to Gary Yancey at (850) 245-9390, SUNCOM 205-9390 or Carolyn McGriff Webb at (850) 245-9385, SUNCOM 205-9385.

JDA/gyl