

THOMAS P. DiNAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 2, 2011

Russell Hotzler, Ph.D.
President
New York City College of Technology
300 Jay Street
Brooklyn, NY 11201

Re: 2010-BSE-0403

Dear President Hotzler:

Our Office examined the New York City College of Technology's (NYCCT) use of Bid Deposit Account 000000012029645 (Account) during the period of September 1, 2009 through August 31, 2010.¹ We performed this examination after learning NYCCT inappropriately used the Account to pay an employee \$24,421 in back salary as part of a settlement agreement. The objectives of our examination were to determine (i) the appropriateness of the actions taken by NYCCT officials in handling bid deposits and (ii) if the Account funds should be remitted to the State Treasury.

A. Results of Examination

We found that NYCCT officials no longer use the Account to hold contractor bid deposits. Instead, the Account's primary purpose is to hold grant funds received from the Research Foundation of the City University of New York (Research Foundation) for reimbursements for work performed by NYCCT faculty members during summer vacation. By retaining these funds in the Account, NYCCT officials violated Section 121 of the State Finance Law, which requires these funds be remitted to the State Treasury. As a result of our examination, NYCCT officials remitted \$997,234 to the State Treasury.

B. Background and Methodology

NYCCT opened the sole-custody Account with Chase Manhattan Bank (now JP Morgan Chase Bank) in 1981 to hold contractor bid deposits in accordance with Section 140 of the New York State Finance Law. As of August 31, 2010, the Account had a balance of \$928,470.

¹We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

To achieve our objectives, we interviewed NYCCT officials to determine how they were using the Account. In addition, we reviewed bank statements, bank reconciliations and deposits to determine if the Account included monies which should have been remitted to the State Treasury.

C. Details of Findings

NYCCT officials stated they no longer use the Account to hold contractor bid deposits and have not done so in a very long time. Instead, they told us the Account is an “unofficial salary advance account.” However, NYCCT officials could only provide limited documentation to show the source of the \$928,470 account balance on August 31, 2010.

To determine the composition of the funds in the Account, we analyzed NYCCT’s use of the Account for the period September 1, 2009 through August 31, 2010. During the period, the Account increased by \$241,003, including \$33,551 in receivables resulting from loans from the Account (e.g., salary advances to CUNY employees). Our analysis showed that of the increases, \$229,479 (or 95.22 percent), including \$26,056 of the \$33,551 in receivables, represent monies received from New York State (State) appropriations (i.e., tax-levy funds). The remaining \$11,524 (or 4.78 percent) of the deposits was derived from non tax-levy funds. None of the funds deposited during the period resulted from contractor bid deposits. State tax-levy funds should be remitted to the State Treasury, as required by Section 121 of the State Finance Law and non tax-levy funds should be deposited in other NYCCT accounts.

We shared our preliminary findings with NYCCT officials and recommended they remit \$917,651 to the State Treasury and remit an additional \$26,056 in receivables when collected. We also recommended they close the Account and transfer the remaining balance to the appropriate NYCCT bank accounts.

In response to our preliminary findings (Appendix A), NYCCT officials conducted their own analysis of Account receipts and disbursements over a seven year period. NYCCT officials found that some NYCCT faculty members conduct grant-funded research during their summer vacation for the Research Foundation. NYCCT continues to pay these faculty members using State tax-levy payroll funds, even though they are working for the Research Foundation. The Research Foundation then reimburses NYCCT for those payroll expenses from the grant funds. NYCCT has been depositing those reimbursements into the Account since 2004 instead of remitting them to the State Treasury.

As a result of our examination and their internal analysis, NYCCT remitted \$997,234 to the State Treasury. The amount NYCCT remitted exceeded the recommended amount because of additional deposits made to the Account after the conclusion of our analysis. In addition, instead

of transferring the remaining balance to other bank accounts, NYCCT officials renamed the Account the “NYCCT Non-Tax Levy Account” to avoid the misleading impression that the Account’s purpose is to hold contractor bid deposits.

We thank the management and staff of NYCCT for the courtesies and cooperation extended to our auditors.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enclosures: Appendix A
Appendix B

cc: Dr. Matthew Goldstein
Gordon Taylor

Appendix A



The City
University
of
New York

Office of Internal Audit and Management Services
230 West 41st Street, 5th Floor
New York, NY 10036
Tel: 646-746-4290
Fax: 646-746-4299

March 8, 2011

Ms. Linda R. Wilcox
Chief Auditor of State Expenditures
Bureau of State Expenditures
Office of the State Comptroller
110 State Street
Albany, NY 12236

Re: Preliminary Findings—Bid Account 000000012029645

Dear Ms. Wilcox:

The University has reviewed the OSC preliminary report on New York City College of Technology's Bid Deposit account and offers the following in response:

While the University understands that the limited amount of information provided to the state auditors at the time of their review necessitated the use of certain expedients and assumptions toward determining whether funds in the college's account were state funds, the University does not agree that in this particular instance claim to the accumulated balance in the account should be determined on the basis of a review of transactions occurring during only the most recent one-year period. The account has been in existence for at least 30 years, and the balance reflects the net result of the myriad deposit and expenditure transactions that have occurred over that period. Such a methodology as that employed by the auditors might be useful under circumstances where over time account transactions tend to follow a regular pattern, but in this case, the account has had many uses over the years, and, therefore, the transactions affecting the account have not always occurred with any definite frequency or magnitude.

In an attempt to reach a more definitive conclusion as to what transactions accounted for the balance in the account, the University reviewed receipts and disbursements for a period of approximately seven years. We were able to determine that beginning in 2004, there was in fact a patterned influx of funds of a particular origin that the college should have been transferring to its state tax-levy operating budget.

The college received funds through an arrangement referred to at the University as summer salary. Summer salary, in essence, is a process by which college faculty who conduct grant-funded research during their summer vacation are paid from the college's tax-levy payroll, and the Research Foundation of the City University of New York reimburses the college from the grant the salary funds paid to the faculty member. University policy requires that such reimbursements be returned to the college's tax-levy budget; however, we have determined that the college did not fully comply with University policy and did not return all of the reimbursements to the tax-levy budget it should have. The amount that the college should have returned to the college's tax-levy budget for summer salary is \$833,945.92 (\$997,233.81 in



summer salary reimbursements, less a September 2010 refund of appropriation the college made to the state of \$163,287.89).

The University has directed that the college transfer forthwith the remaining balance of the summer salary funds in the account (\$833,945.92—see attached) to its state tax-levy account (Income Fund Reimbursable, or IFR account). The University has also taken the appropriate measures to make certain that the college understands University policy for summer salary reimbursements and the need to promptly transfer reimbursements to the tax-levy budget when received from the Research Foundation.

Comment
1.

Finally, as the report acknowledges, the account no longer functions as a bid deposit account. Rather than close the account, the college has changed the name of the account to the NYCCT Non-Tax Levy Account, so as not to give the misleading impression that the account's primary purpose is to escrow bid deposits from vendors. The University believes that the account title change will serve the same purpose that closing and reopening the current account would but without the unnecessary administrative burden. The college has also strengthened its internal controls to make sure that the account is not used for improper purposes.

If you have questions or comments about any of the above, please do not hesitate to contact me.

Very truly yours,



Gordon C.E. Taylor
Director

Attachments

cc: Chancellor Matthew Goldstein
 Executive Vice Chancellor and COO Allan H. Dobrin
 Senior Vice Chancellor Marc V. Shaw
 Senior Vice Chancellor and General Counsel Frederick P. Schaffer
 President Russell K. Hotzler, NYCCT
 Associate Vice Chancellor Matthew J. Sapienza
 Dr. Barry Kaufman
 Dr. Howard Apsan

Appendix B

State Comptroller Comments on Auditee Response

1. In their response, CUNY officials included an attachment to document the transfer of \$833,945.92 to its State tax-levy account. Since this documentation included banking information, OSC has redacted the attachment from Appendix A.