



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Selected Aspects of Discretionary Spending

State University Construction Fund



Report 2013-S-14

September 2014

Executive Summary

Purpose

To determine whether the State University Construction Fund's discretionary spending complied with its guidelines and was reasonable, adequately supported and properly approved. Our audit period was April 1, 2010 to December 31, 2012.

Background

The State University Construction Fund (Fund) was created in 1962 to expedite the completion of the \$700 million master plan for the State University of New York (SUNY). This master plan enabled SUNY to accommodate twice the number of students enrolled (from 53,000 to 106,000). The Fund was established as a public benefit corporation whose sole mission was to act as an agent for SUNY to design, construct, acquire and improve State University facilities and to utilize a wide variety of public and private resources. To accomplish its mission, the Fund incurs direct costs for specific program purposes and it incurs indirect or "discretionary costs" that support overall objectives.

The audit identified a total of \$4.6 million of Fund spending, which was discretionary in nature. Each public authority should have formal policies and procedures specifying which types of discretionary spending are appropriate and the dollar thresholds for each. In addition, the policies should state what type of supporting documentation and formal approvals are necessary for such spending.

Key Findings

We reviewed a judgmental sample of 327 discretionary payments totaling \$248,205. Of that amount, we found that payments totaling \$181,855 (73 percent) fully complied with Fund guidelines. They appear reasonable, adequately supported and properly approved. However, we questioned payments totaling \$66,350 that the Fund should examine and assess their propriety, including:

- \$47,458 for travel by other than the Fund's preferred mode and without proper supporting documentation to justify such travel;
- \$3,392 for food purchases that had not been approved in advance as required by Fund policy; and
- \$15,500 for training with no written justification of the business need, including \$12,500 for two separate three-day conferences that each provided only eight hours of total training.

Key Recommendation

- Examine written policies and procedures to determine if they adequately address the various forms of discretionary spending. The review should include (but not be limited to) definitions of such costs, necessary justifications, dollar thresholds, formal approvals and required supporting documentation.

Other Related Audit/Report of Interest

[Battery Park City Authority: Selected Aspects of Discretionary Spending \(2012-S-158\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

September 19, 2014

Mr. H. Carl McCall
Chairman
State University Construction Fund
353 Broadway
Albany, NY 12246

Dear Mr. McCall,

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Selected Aspects of Discretionary Spending*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 377 of the Education Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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This report is also available on our website at: www.osc.state.ny.us

Background

Certain public authority costs pertain directly to the operating purpose of the entity. For example, a construction authority's expenditures to pay for design or construction related expenses are operating costs. However, a public authority also incurs "discretionary" costs to pay for expenses that indirectly support the primary operating purpose. For example, discretionary costs include expenses for travel and entertainment, employee professional development, sponsorship of community events, and charitable contributions. As with operating costs, discretionary costs must be related to the mission of the public authority and must be reasonable. Also, costs must not be incurred for the personal benefit of the board of directors, management or staff. Each public authority should have formal policies and procedures specifying which types of discretionary costs are appropriate and the dollar thresholds for each. In addition, the policies should state what type of supporting documentation and formal approvals are necessary for such costs and require employees to perform due diligence to obtain the lowest cost.

This guidance is affirmed by the New York State Authorities Budget Office (ABO) in its November 2012 Recommended Practices, which states that boards of directors and authority management have an obligation to authorize the expenditure of funds only for purposes that relate to and support the mission of the authority. The fiduciary duty of the board includes adopting policies that safeguard the assets and resources of the authority and protect against the use of funds for purposes that do not advance its core purpose and objectives. It is particularly important for the board to develop a policy on the proper use of authority funds that clarifies for all employees what would and would not be considered appropriate discretionary spending.

The State University Construction Fund (Fund) was created in 1962 to expedite the completion of the \$700 million master plan for the State University of New York (SUNY). This master plan enabled SUNY to accommodate twice the number of students enrolled (from 53,000 to 106,000). The Fund was established as a public benefit corporation whose sole mission was to act as an agent for SUNY to design, construct, acquire and improve State University facilities and to utilize a wide variety of public and private resources.

To determine if the Fund's discretionary spending complied with its guidelines and was reasonable, adequately supported and properly approved, we examined 327 payments for discretionary spending totaling \$248,205 for the period of April 1, 2010 through December 31, 2012.

Audit Findings and Recommendations

Of the \$248,205 in payments we reviewed, we found that \$181,855 (73 percent) complied with the Fund's applicable guidance. They appear reasonable, were adequately supported and properly approved. However, as detailed in this report, we questioned 178 payments totaling \$66,350 (27 percent) because they did not fully comply with established procedures. The costs in question were not properly approved, might not have been reasonable, and/or were not adequately documented.

Not In Compliance With Fund Guidelines

Travel

The Fund's guidelines do not require formal approval outside the employee's Division for normal business activity. All other travel requires the employee's supervisor's approval and one other authorization when the Fund will incur expenses and it is not for normal business activity. In addition, the request must have appropriate supporting documentation to justify the expense. Travel by plane is only allowed to Buffalo, Long Island and locations outside New York or when another mode of travel would result in excessive and unreasonable travel time or possibly result in an overnight expense. When traveling to New York City, the train is the preferred method of travel and exceptions must be approved by an employee's supervisor. During the audit period, the Fund spent about \$1.5 million for travel costs.

Most of the discretionary spending for travel that we examined complied with Fund procedures. However, we questioned 168 payments totaling \$47,458 as follows:

- 63 payments totaling \$32,148 for plane flights for two employees. None of these payments included supporting documentation to justify these expenses, although the payments had been approved; and
- 105 payments totaling \$15,310 for one employee to drive to New York City on 109 occasions rather than taking a train. The required justification for using a personal car was not documented.

(Note: According to Fund officials, the Fund has not authorized plane travel for any employee from Albany to Buffalo or Long Island since 2011.)

Food

The Fund's guidelines state that food will be provided at meetings that are for Fund business purposes, will last at least two hours and include non-Fund employees. For meetings where lunch will be provided, the meeting must begin no later than noon and end no earlier than 2 p.m. All food service requests must be approved at least five business days prior to the meeting date. During the audit period, the Fund spent \$24,018 on food for meetings. In general, these expenditures complied with the Fund's prescribed guidelines. However, we questioned three

payments totaling \$3,329 which had not been approved in advance, as Fund guidelines require.

Not Reasonable

Conferences and Training

During the audit period the Fund spent \$221,800 on conferences and training. We reviewed 19 payments totaling \$90,305. We found that 12 of the sampled payments totaling \$74,805 complied with Fund requirements. However, seven payments totaling \$15,500 were questionable. One payment totaling \$3,000 for an outside facilitator had insufficient justification of the business need for the expense. One payment totaling \$4,500 was for 18 employees to attend a three-day conference in 2010, and five payments totaling \$8,000 were for 33 employees to attend a three-day conference in 2012. Each of these conferences only offered a total of eight hours of training over the three days. Among the activities available to attendees during the remaining time were golf outings and tours.

Other Matters

In addition to the sampled discretionary spending, we noted that there were other related expenses incurred for travel where it appears that employees may not have exercised due diligence to obtain the lowest cost, as follows:

- The two aforementioned employees who traveled 63 times by plane (instead of car) incurred \$41,544 in air fare, car rental, and parking costs. If they had used a personal vehicle for this travel, we estimate that the travel costs would have been \$16,899, saving the Fund \$24,645.
- We noted that an employee stayed overnight in New York City on 62 occasions and returned home early the following day. If the employee had returned home on the same day as the travel to New York City, we estimate that the Fund would have saved \$15,034.

Recommendations

1. Examine written policies and procedures to determine if they adequately address the various forms of discretionary spending. The review should include (but not be limited to) definitions of such costs, necessary justifications, dollar thresholds, formal approvals and required supporting documentation.
2. Ensure that employees use the Fund's preferred method of travel and all exceptions are clearly documented and justified.

Audit Scope and Methodology

The audit determined whether discretionary spending complied with Fund guidelines and was

reasonable, adequately supported and properly approved. The audit covers the period April 1, 2010 through December 31, 2012.

To accomplish our audit objective, we reviewed policies, procedures and guidelines related to submitting of and paying for discretionary spending. We also interviewed Fund officials and employees to obtain an understanding of the Fund's procedures and the internal controls regarding discretionary spending. We did not review payments made by the Fund for items related to construction projects at SUNY campuses because they are not under the direct control of the Fund. We selected a judgmental sample of payments, based on the nature and amount of the payment. We reviewed the supporting documentation for 327 payments totaling \$248,205.

We conducted our performance audit 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article X, Section 5 of the State Constitution and Section 377 of the Education Law.

Reporting Requirements

A draft copy of this report was provided to Fund officials for their review and comment. Their comments were considered in preparing this final report and are attached in their entirety at the end of this report. Our rejoinder to certain Fund comments are included in this report's State Comptroller's Comments.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chairman of the State University Construction Fund shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



Robert M. Haelen
General Manager
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July 18, 2014

Ms. Carmine Maldonado
Office of the State Comptroller
Division of State Government Accountability
123 William Street - 21st Floor
New York, NY 10038

RE: Draft Audit Report: State University Construction Fund *Selected Aspects of Discretionary Spending*

Dear Ms. Maldonado:

I am responding on behalf of Chairman H. Carl McCall to the revised Draft Audit Report on Selected Aspects of Discretionary Spending in the State University Construction Fund (the Fund).

During the audit period, the Fund successfully delivered nearly \$2.5 billion of design and construction value to upgrade and protect State assets and provide much needed additional program space for SUNY campuses. This was accomplished with a Fund staff of only 152 persons and discretionary expenditures, as defined by your office, of \$4.6 million (less than two-tenths of one percent of construction value). This accomplishment is one that the Fund is extremely proud of.

We appreciate the opportunity to respond to the audit in order to provide some necessary clarifications; correct factual misstatements and omissions; and express our disagreement with some of the findings and recommendations. Our response to the specific audit findings/recommendations is as follows:

Section Entitled: Not in Compliance with Fund Guidelines

Subsection: Travel

Finding (p.5):

- "63 payments totaling \$32,148 for plane flights for two employees. None of these payments included supporting documentation to justify these expenses, although the payments had been approved."

Response:

It is important to note that all Fund policies and procedures were followed. Fund procedures do not require a written justification be included with the request for plane travel for routine business travel to Long Island and Buffalo. We believe that appropriate controls were in place to justify

* Comment 1

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* See State Comptroller's Comments, page 14

these travel expenses. Requests to travel by plane were evaluated and approved by the employee's supervisor and the Director of the respective division. As our travel policy states, managers and supervisors are responsible for monitoring travel for necessity, reasonableness and expense purposes. Employees are required to submit a Request for Travel Approval Form if they travel by plane which serves as documentation of the appropriate approvals.

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Comment
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In addition, the Report failed to recognize that the Fund has not authorized plane travel for any employee commuting from Albany to Buffalo or Long Island since 2011.

Finding (p.5):

- "105 payments totaling \$15,310 were for one employee to drive to New York City on 109 occasions rather than taking a train. The required justification for using a personal car was not documented."

Response:

Upon review of the Fund's travel policy, we have noted that the policy stated that the preferred mode of "travel to NYC" was by train. The travel policy was intended to address travel to Manhattan only, as train travel would be adequate for most employee travel needs. The travel in question was for construction site visits in Brooklyn, for which the employee needed to carry architectural plans and other relevant documents to the job site. Given the destination and the need to carry cumbersome architectural documents, travel by train would not have been practicable. The Fund's travel policy will be revised to clarify that justification will be required when employee uses an alternative mode of travel rather than train to Manhattan specifically. It is also important to note that there was no material cost difference between two modes of travel to Brooklyn.

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Subsection: Food

Finding (p.5):

- "During the audit period, the Fund spent \$24,018 on food for meetings. In general, these expenditures complied with the Fund's prescribed guidelines. However, we question four payments totaling \$5,569 which had not been approved in advance, as Fund guidelines require."

Response:

We disagree that the payments in question did not receive, or were subject to, the required approvals. We reviewed the supporting documentation for the payment in the amount of \$2,167.71. This payment was for food service provided at a three day off site strategic planning session with Fund staff that occurred on May 18-20, 2010. We found that the Fund's General Manager had signed the contracts for the food service on May 12, 2010, a full week prior to the delivery of the service. The contracts were provided to OSC during the audit along with other documentation supporting the payment.

The second payment in question for \$2,972.55 was a reimbursement to SUNY for the Fund's share of the annual employee service awards luncheon. This payment included the cost of the Fund's award attendees' meals and the token award. We believe that recognizing career milestones for our employees is not only appropriate, but essential for demonstrating our appreciation for their contributions to the Fund's success. It has been a long standing practice for the Fund to participate in SUNY's service award luncheon as a way to reduce the costs associated with hosting such an

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event. As stated in the Report, the Fund’s food service policy provides guidance for requesting approval to service food at “meetings”. We do not consider the annual awards luncheon a meeting and therefore assert that this event was not subject to this policy.

The remaining two payments for \$210.40 and \$209.00 were for lunches provided at two meetings arranged at the request of the Fund’s General Manager. It is our position that the food service provided at these meetings were appropriately authorized and approved by the Deputy General Manager.

We conclude that there is no basis for this finding and request it be removed from the report.

Section Entitled: Not Reasonable

Subsection: Conferences

Finding (p.6):

- “We reviewed 19 payments totaling \$90,305. We found that 12 of the sampled payments totaling \$74,805 complied with Fund requirements. However, seven payments totaling \$15,500 were questionable. One payment totaling \$3,000 for an outside facilitator had insufficient justification of the business need for the expense. One payment totaling \$4,500 was for 18 employees to attend a three-day conference in 2010, and five payments totaling \$8,000 were for 33 employees to attend a three-day conference in 2012. Each of these conferences only offered a total of eight hours of training over the three days. Among the activities available to attendees during the remaining time were golf outings and tours.”

Response:

We have reviewed the “Results of Audit Work” schedule that was provided by OSC to support the report findings. The schedule included only six conference payments that were in question, totaling \$12,500. We request that OSC correct the misstatements in this finding to accurately reflect that there are only six payments in question.

Additionally, in regard to the six payments for two conferences, we adamantly disagree with the finding. OSC identified the conferences in question to be SUNY’s Physical Plant Administrators Association (PPAA) 2010 and 2012 summer conferences. As was explained to the audit team, one of the primary purposes of the PPAA is to promote the sharing of information on all phases of university and college facilities planning, design, construction, particularly with reference to issues of special interest to institutions located within the SUNY System.

The Fund is very cognizant of the cost of attendance at this event. As noted in the Report’s Executive Summary, the Fund’s sole mission is to as serve as an agent for SUNY for the design, construction and improvement of SUNY’s facilities. Attendance at the PPAA conference is extremely valuable as it provides an opportunity for the Fund’s staff to receive information on emerging issues related to SUNY’s capital plan and participate in discussions with our clients (SUNY) in a collaborative atmosphere.

In addition, certain information presented in the finding is inaccurate and/or misleading. While each of the conferences were held over three days, they covered only the afternoon of the first

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day and the morning of the last day (i.e.: two full days in total). Furthermore, the assertion in the report that the conferences only offered "a total of 8 hours of training" is a misstatement of fact. A review of the conference agendas and the registration materials indicate that the 2010 conference offered over 12 hours and the 2012 conference offered over 15 hours of presentations, training and meetings that were directly related to the Fund's mission and purpose. Additionally, one of the tours that you reference was a tour of the Golisano Children's Hospital project that had been recently completed by the Fund. We acknowledge that the conferences did include a block of time for informal activities to allow for networking and collaboration among participants. An analysis of staff attendance revealed that the majority of Fund employees registered for the formal training sessions during these blocks of time. It is additionally important to note that the Fund does not sponsor this conference nor does it control the scheduling of the sessions. The Fund approves attendance at the PPAA because we have judged this event to be of tremendous value to its core mission.

Section Entitled: Other Matters

Finding (p.6):

- "The two aforementioned employees who traveled 63 times by plane (instead of car) incurred \$41,544 in air fare, car rental, and parking costs. If they had used a personal vehicle for this travel, we estimate that the travel costs would have been \$16,899, saving the Fund \$24,645."

Response:

We have reviewed your calculations and noted that the estimated savings was derived by simply comparing the airline ticket price to the mileage reimbursement for each traveler. The amount of the estimated savings should be reduced by the incidental costs related to traveling by car (i.e., tolls), the cost of an additional night of lodging and the associated meal per diem (roughly estimated at \$11,000), and the value of the lost productivity resulting from the additional travel time.

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Finding (p.6):

- "We noted that an employee stayed overnight in New York City on 62 occasions and returned home early the following day. If the employee had returned home on the same day as the travel to New York City, we estimate that the Fund would have saved \$15,034."

Response:

The purpose of the employee's travel was to participate in on-site construction project meetings, perform periodic job site inspections, participate in the resolution of construction issues, interface with campus representatives, and to perform other project management responsibilities. Given the nature of construction work, Fund employees need to accommodate the schedules of the contractor and the campus representatives. Employees in travel status are often traveling to a job site very early in the morning to arrive at the start of a contractor's work day and may stay to attend construction meetings scheduled after the contractor's work has ended late in the day. It has not been the Fund's policy to require an employee to travel after a long day of site visits, particularly during inclement weather. The decision of when to travel is appropriately left to the judgment of the traveler and their supervisor.

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Below is our response to your specific recommendations.

Recommendation #1

"Examine written policies and procedures to determine if they adequately address the various forms of discretionary spending. The review should include (but not be limited to) definitions of such costs, necessary justifications, dollar thresholds, formal approvals, and required supporting documentation."

Response:

The Fund concurs with the recommendation and will continue to periodically review and update written policies and procedures, as appropriate, to provide direction to Fund staff on matters related to discretionary spending.

Recommendation #2:

"Ensure that employees use the Fund's preferred method of travel and all exceptions are clearly documented and justified."

Response:

The Fund will continue to monitor travel in this regard to ensure that employees are adhering to the travel policy. The Fund will also revise its travel policy to clarify its procedures with respect to preferred methods of travel.

Respectfully submitted,



Robert M. Haelen
General Manager

Copy: Chairman H. Carl McCall

State Comptroller's Comments

1. According to the Fund's travel policies, air travel is restricted to ". . . those instances where another mode of travel would result in excessive and unreasonable travel time or possibly result in an overnight expense." However, there was no written evidence that traveling by car (the Fund's preferred mode) would result in "excessive or unreasonable travel time" or in overnight travel. Further, the flights in question were not direct (the Albany to Buffalo flights were via Baltimore). Further, in several instances, the flights were associated with overnight hotel stays.
2. Based on comments by Fund officials, we revised the report as appropriate.
3. The Fund's travel policy specifically states that "Train travel is the preferred mode of transportation to New York City. Exceptions to this method must be approved by the employee's supervisor." Consequently, it is unclear to us how Fund officials limit this directive to Manhattan, at the exclusion of the other boroughs within New York City. If it were more appropriate for an employee to travel by personal car, then that justification should have been provided at the time the Request for Travel Approval form was submitted. Further, several of these trips resulted in overnight stays with the employee returning the next morning. The justification for the overnight stay was that the employee did not want to drive after a long day of work. Thus, the overnight stays might have been avoided had the employee taken the train.
4. Based on information provided by the Fund, we deleted one of the payments in question (totaling \$2,168) from our report and adjusted the report as appropriate. However, for the remaining three payments (totaling \$3,392) there was no evidence that the food procurements in question were approved at least five days in advance, as Fund policy otherwise requires.
5. The section of the report in question pertains to conferences as well as training. As the report states, we questioned seven payments for conferences and training totaling \$15,500. In light of the Fund's comment, we revised the heading of this report subsection to indicate that it addresses conferences and training.
6. It is possible that excursions, tours, receptions and other non-classroom activities provide benefits to Fund staff attending conferences. Nonetheless, we maintain that the Fund should adequately document the benefits of such non-classroom activities to the Fund's core mission. In addition, our report accurately reflects the training session time allocations based on the agenda for the SUNY/PPAA 2010 Summer Conference. The agenda included two time periods for concurrent training sessions - one from 2:00 p.m. to 5:00 p.m. on Tuesday and another from 8:00 a.m. to 11:00 a.m. on Wednesday. Consequently, although upwards of 15 hours of training were provided, attendees could only obtain about 8 hours of training because sessions were provided concurrently.
7. As previously noted, the flights from Albany to Buffalo went through Baltimore. In several instances, these flights involved overnight stays. Moreover, it is unclear how the Fund calculated an additional \$11,000 for overnight stays and other travel-related costs associated with automobile travel.
8. Although certain circumstances can justify deviation from normal Fund policy, as the report states, the Fund provided no written explanations or justifications for the deviations

which occurred at the time the travel was authorized. It was only after we asked why Fund policy was not followed that Fund officials told us of circumstances that could have led to frequent overnight stays