



State of New Jersey

OFFICE OF THE STATE COMPTROLLER
P.O. Box 024
TRENTON, NJ 08625-0024

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

A. MATTHEW BOXER
State Comptroller

August 28, 2013

Robert L. Barchi
President
Rutgers, The State University of New Jersey
Office of the President
83 Somerset Street
New Brunswick, NJ 08901

Re: Follow-Up Report F-08

Dear President Barchi:

Pursuant to the State Comptroller's authority as set forth in *N.J.S.A. 52:15C-1 et seq.*, we have followed up on the actions taken by officials of Rutgers, the State University of New Jersey (Rutgers or University) to implement the recommendations contained in our audit report entitled *Contracting and Selected Financial Management Practices* (Report PA-11), issued on January 19, 2011. Our findings and conclusions are set forth below.

Background, Scope and Objective

Our January 2011 audit report found that while Rutgers represented that it was committed to a competitive purchasing process, its procurement procedures and practices fell short of actually fostering appropriate competition, thereby risking overpayment for goods and services. Rutgers frequently failed to follow its own stated policies concerning use of a competitive procurement process and unfairly favored incumbent vendors with its non-competitive negotiated contract procurement methodology. Similarly, in its procurements concerning capital projects, Rutgers restricted competition by requiring a separate prequalification of contractors independent of the State process and by limiting bidding to pre-selected firms.

We also found that after more than \$35.7 million in expenses, \$23.2 million more than the original contract amount, the University's implementation of the Rutgers Integrated

Administrative System (RIAS) still was not complete. Rutgers' contract management practices had contributed to the project's cost overruns and implementation delays.

In addition, our initial audit found that controls over Rutgers' cash management system and related processes needed to be strengthened.

The objective of our follow-up engagement was to determine if the University has implemented the 18 recommendations contained in our initial report.

Summary Conclusion

We found that the University has made some progress in implementing the recommendations set forth in our initial audit report. Of the 18 audit recommendations, 8 recommendations have been implemented, 4 recommendations have been partially implemented and 6 recommendations have not been implemented.

Status of Initial Audit Recommendations

Recommendation 1

The Legislature and Governor, as well as the University itself, should consider imposing on Rutgers a requirement to follow State public bidding requirements.

Status: Not Implemented

The University does not concur with this recommendation and continues to procure goods and services using many of the same policies and procedures it did during our initial audit, with modifications as discussed below. In 2011, following the issuance of our audit, legislation was introduced in both the State Senate and the State Assembly that would require Rutgers to establish bidding and contracting procedures that mirror the requirements of the State College Contracts Law. The legislation was reintroduced in 2012 and is currently before the Senate Higher Education Committee and the Assembly Higher Education Committee.

Recommendation 2

Revise the Policy [University Purchasing Policy] to enhance competition for contracts exceeding \$40,000 by requiring advertising without limit to pre-approved vendors.

Status: Not Implemented

Rutgers continues to disagree with this recommendation, stating that it does not believe the additional costs of advertising would yield more competitive results than what it is experiencing under its current contracting process.

Although by law Rutgers is not required to comply with the State College Contracts Law, it has developed guidelines for the procurement of services for capital projects. Our review of five capital project contracts exceeding \$40,000 (three for the services of a general contractor and two for architectural services) found that as reported in our initial audit, Rutgers still does not consistently follow its own stated procurement policies and that competition is still limited to a select group of bidders.

None of the five contracts we reviewed were publicly advertised. Instead, 10 to 13 firms were invited to bid on each project seeking a general contractor and 24 to 27 firms were invited to bid on each contract for architectural services. These firms represent approximately 6 percent of the University's pre-approved contractors for each of these two vendor categories.

For the three general contractor procurements, five firms were invited to bid on more than one contract, and one of those firms was invited to bid on all three contracts. For the two architectural services contracts, five firms were invited to bid on both contracts. Inviting the same firms from a limited pool of firms to bid on multiple projects limits price competition.

For one of the architectural services contracts, the University selection committee evaluated the proposals in accordance with criteria set forth in the University's request for proposals, and gave the highest technical ranking to a vendor whose price proposal was near the middle of the range of quotes received from the interviewees. However, those selection committee results were overridden by a smaller group of committee members who decided to award the contract to a firm that was ranked lower and had submitted a bid that was \$100,000 more expensive. In response to our inquiries, a Rutgers official stated to us that the selection committee included members who were not familiar with the bidders and, in particular, the recent underperformance of the selection committee's chosen vendor. Rutgers was unable to document with specificity how or why the selection committee decision was disregarded.

Recommendation 3

Revise the Policy to define the criteria that permit non-competitive negotiated contracts as a procurement method.

Status: Implemented

Following our initial audit, the University updated its purchasing policy effective March 2012 to eliminate the awarding of non-competitive negotiated contracts solely on the basis of "the best interest of the University."

Recommendation 4

Require documentation explaining the reasons for each non-competitive negotiation or other

waiver from a competitive vendor-selection process.

Status: Implemented

As noted above, Rutgers no longer awards non-competitive negotiated contracts based simply on the “best interest of the University.” Rutgers now invites multiple vendors to submit bids or proposals for contracts valued at \$40,000 or more. Alternatively, if there is a sole/single source justification, the University negotiates a contract with the sole supplier.

Our initial audit uncovered instances in which the sole source exception was used for services as mundane as parking management. Although characterized as “unique,” there were at least four other vendors offering similar services. Since the audit, Rutgers has created an enhanced “Request for Sole/Single Source Procurement Form.” This new form has replaced the previously used “Request for Competitive Bid Waiver” form and has been refined. The original form included seven stated reasons to justify bypassing a competitive process and further allowed the requesting department to create its own justification by indicating “other reason” on the form. The new form now includes 12 possible justifications requiring more precise reasons to support the sole/single source purchase. In addition, the new form requires written approval by a University dean, department director or their designated representative before the request is reviewed by Rutgers’ Procurement Services office. Furthermore, a second level of approval by a University vice president is now required for requests for sole/single source procurements of \$1 million or more. The Executive Director of University Procurement Services administered training to procurement staff regarding this updated procedure.

Recommendation 5

Ensure that the Board of Governors approves any non-competitive contract exceeding \$1 million.

Status: Implemented

In addition to the measures set forth above, new University contracting policies issued during our initial audit require the University’s Board of Governors (Board) to approve any single source or sole source contract worth \$1 million or more. We requested documentation from the University concerning non-competitive contracts totaling over \$1 million awarded from October 1, 2011 to June 30, 2012. Each of the three applicable contracts were, in fact, approved by the Board.

Recommendation 6

Enforce the Policy addressing waivers from competition for sole source and single source contracts.

Status: Partially Implemented

The University agreed with this recommendation and acknowledged that our initial audit had uncovered insufficient University justifications concerning certain bidding waivers. The University committed to reviewing its sole and single source designations and further defining or even eliminating the single source designation. As noted above, in January 2012, an enhanced “Request for Sole/Single Source Procurement Form” was implemented.

For our follow-up engagement, we reviewed seven sole/single source University procurements that took place between October 1, 2011 and June 30, 2012. Of these seven, two did not include sufficient reasons to justify the waiver. For example, the justification for contracting with a catering company to provide food for students enrolled in the University’s Executive MBA program was based on that company’s ability to provide “fresh innovative menus” with a variety of items ranging from vegetarian to gluten-free options. According to the requesting department, “no other vendor could include this level of services.” However, our research uncovered at least four other vendors that can provide this type of corporate catering in the same geographic area. Another similarly questionable sole/single source procurement was for hotel accommodations for Rutgers football players and staff for home football games. In response to our inquiries, the University’s Procurement Director stated that the University will use a competitive procurement process for these services next season.

Recommendation 7

Require each vendor to submit an ownership disclosure form to facilitate enforcement of the Policy concerning the award of contracts to employees and related parties.

Status: Partially Implemented

Our initial audit recommended that the University adopt the vendor disclosure requirements applicable to other public contracting entities. Specifically, New Jersey law provides that state, county and municipal government entities are required to obtain a statement setting forth the names of any individuals who own ten percent or more of any bidding vendor. *N.J.S.A. 52:25-24.2*. This disclosure statement must be submitted prior to receipt of the bid or accompanying the vendor’s bid. The University agreed with our recommendation.

Our follow-up engagement found that the University’s Procurement Services website contains a link to an ownership disclosure form that complies with the law mentioned above and purports to be required for all requests for proposals, requests for qualifications and requests for information. However, we found that the form is not being universally used at Rutgers. For example, our testing revealed that the Facilities and Capital Planning Department required the form in connection with construction contracts, but did not require it for professional services contracts. For other University contracts, we requested for review four requests for proposals. The University told us it could not locate the disclosure form for one request for proposal but would ask the winning vendor to complete the form. Of the three remaining forms, one did not include

the names of the actual owners of the vendor, but rather listed a corporation as the owner without properly disclosing the names of the individuals who own that corporation. The second form was not signed or dated. The remaining form was filled out completely and properly.

Recommendation 8

Utilize the State Department of the Treasury's Division of Property Management and Construction system for prequalification of contractors, architects, engineers and other construction professionals.

Status: Not Implemented

Our initial audit found that Rutgers used its own prequalification process to create a pool of potential contractors, architects, engineers and other construction professionals for its contracts. This practice unnecessarily duplicated the efforts of the State's Division of Property Management and Construction (DPMC). As described in our initial audit, that agency has developed a prequalification system for contractors and design professionals that is used not only in State contracting, but also is widely used by local government entities and school districts.

Following our initial audit, the University's Facilities and Capital Planning Department reviewed the DPMC list of prequalified vendors, but ultimately decided not to utilize that larger contractor pool. For example, with regard to general construction firms, Rutgers determined it has already approved 90 of the 271 DPMC-approved firms and that 12 of the remaining firms did not meet the University's minimum bonding criteria. The University contends that adding the other 169 firms to its contractor pool is not necessary to ensure adequate price competition.

Recommendation 9

Monitor adherence to revised Board policies concerning approval of employee contracts.

Status: Implemented

During 2007 and 2008, the University's contracts with its three most highly paid athletics coaches were extended and, in two instances, were modified to provide greater compensation. Our initial audit determined that there was no pre-approval, ratification or full knowledge by the Board or an appropriate Board committee concerning any of these contract changes. During the course of our audit, the Board adopted a new policy requiring that employee contracts worth more than \$300,000 be approved by the University President in consultation with the Board's executive committee and that contracts exceeding the salary of the University President be approved by the full Board.

For our follow-up engagement, we reviewed two Athletic Department contracts worth more than \$300,000 that were executed since the time of our initial audit. Both were accompanied by the

appropriate approvals.

Recommendation 10

Monitor adherence to the University's policies and procedures that limit the use of Quick Orders.

Status: Not Implemented

Rutgers defines a "Quick Order" as a purchase that does not exceed \$5,000 and therefore does not require the submission of a requisition to the University's Procurement Services office for review and approval. A Quick Order purchase is sent directly to a vendor by the University department making the purchase. These payments are processed without the University's typical set of internal controls, such as a review of items being purchased and a certification that the goods or services were received. In accordance with Rutgers' Policy, Quick Orders cannot be used for certain goods and services including furniture, carpeting, leases, legal services and lobbyists.

For our follow-up engagement, we reviewed 73 Quick Orders dated from October 1, 2011 to June 30, 2012 and found that 43 appeared to be improper "split" transactions totaling \$126,984. Rutgers defines a "split" purchase as a single purchase costing \$5,001 or more that is split into a series of smaller individual purchases to bypass the Quick Order threshold. By splitting transactions, the department making the purchase is able to avoid using the University's Procurement Services office and the requirement of obtaining quotes or undertaking a formal bidding process.

For example, three University Quick Orders to the same vendor for a conference totaled \$10,908. The purchases were split into dinner, lodging and breakfast purchases. By splitting the purchase into orders of \$4,854, \$4,845 and \$1,209, the department making the purchase avoided the \$5,000 threshold. Similarly, three Quick Orders were sent to the same vendor for police uniforms totaling \$6,417 on the same day. The purchases were split to separately pay for the uniforms of three different officers, resulting in each purchase remaining under the \$5,000 threshold.

The University's Internal Audit Department conducted its own review of more than \$55 million in Quick Order transactions processed during the 12-month period ending October 31, 2011. It similarly found departments making multiple payments to the same supplier in one day that exceeded \$5,000 in total, as well as repeated Quick Order payments made to the same suppliers over the course of 12 months.

In addition, the Internal Audit Department observed several instances of continued departmental non-compliance with other aspects of the University's Quick Order policy. These included:

- processing of Quick Orders for payments to ineligible professional service providers in the amount of \$1.8 million;
- processing of Quick Orders for other purchases prohibited by policy, such as printing and advertising services, graphic design services and furniture; and
- processing of Quick Orders in amounts greater than \$5,000.

Recommendation 11

Attempt to negotiate discount pricing agreements with vendors being paid substantial amounts by the University as a result of bulk or repetitive purchases.

Status: Implemented

In response to our initial audit, the University identified 15 commodity or service areas for which bulk purchases were made throughout the year where the University could benefit from a discounted pricing agreement. The University has since entered into a competitive contract for 9 of the 15 commodity or service areas. Two other contracts are in the process of being completed. The remaining four contracts have been put on hold due to Rutgers' merger with the University of Medicine and Dentistry of New Jersey (UMDNJ).

Recommendation 12

Require the Internal Audit Department to periodically review Quick Orders to determine whether they are being used in accordance with University Policy.

Status: Implemented

As noted above, the University's Internal Audit Department conducted a review of more than \$55 million in Quick Order transactions processed during the 12-month period ending October 31, 2011. The Internal Audit Department plans to undertake another review of Quick Order compliance later this year.

Recommendation 13

Develop a comprehensive plan concerning implementation of the remaining RIAS applications, considering the cost-effectiveness of various options and the business justification for remaining implementations.

Status: Not Implemented

Following our initial audit, Rutgers stated that it would develop implementation plans for at least three of the four remaining unimplemented RIAS applications. Rutgers then reorganized its

RIAS project management team and held team meetings. However, according to a Rutgers official involved in the process, the topics discussed at those meetings focused on the module being implemented at the time, not the four remaining applications.

Subsequent progress on the RIAS implementation has been affected by Rutgers' merger with UMDNJ. Specifically, Rutgers officials are in the process of analyzing whether to use RIAS or UMDNJ's own administrative system post-merger. Rutgers has issued a request for proposals seeking a consultant to analyze the two systems.

Recommendation 14

Implement the recommendations concerning information technology security measures that were provided to Rutgers' officials under separate cover.

Status: Partially Implemented

Of the six recommendations contained in the confidential letter sent to Rutgers' officials as part of our initial audit, Rutgers has implemented five and has partially implemented one. Details of these results are confidential for information technology security reasons and have been forwarded to Rutgers in a separate letter.

Recommendation 15

Using the software already purchased, automate the bank reconciliation process to increase the efficiency of operations.

Status: Not Implemented

As referred to above in Recommendation 13, this RIAS implementation is on hold due to the merger with UMDNJ.

Recommendation 16

Develop a clear policy that lists necessary procedures regarding cash deposits, reconciliations and the transfer of information to the University's bank accountants.

Status: Partially Implemented

During our initial audit we found that not all University departments were notifying University accountants of expected deposits. As a result, deposits were not being properly credited in a timely manner to the University's general ledger. Rutgers has since updated its cash management policy to include procedures to address our recommendation. The updated policy includes instructions requiring departments to submit proper notification of deposits. However,

in reviewing bank reconciliations for our follow-up review, we found deposits of \$59,802,224 in the current month and \$47,401 in the previous month that had not yet been recorded in the general ledger. Thus, although the University's cash management policy has been updated, it evidently has not been fully implemented.

Recommendation 17

Periodically update policies and procedures to reflect the current operating environment including RIAS and any subsequent modifications to RIAS.

Status: Implemented

We reviewed all 11 of the University policies found deficient during our initial audit and found that all but two have been updated and reflect the RIAS implementation where applicable. The remaining two are in the process of being updated.

Recommendation 18

Maintain a comprehensive, up-to-date list of all business offices, their functions, location and staff assigned.

Status: Implemented

Rutgers is now maintaining a current list of its business offices. That list includes business manager, function, assigned staff and contact information. Rutgers plans to keep this information up to date by periodically asking each department to update its list of personnel and corresponding contact information.

Reporting Requirements

We provided a draft copy of this report to Rutgers officials for their review and comment. Their comments were considered in preparing our final report and are attached as Appendix A. We address selected points from the University's response in Notes set forth in Appendix B.

While most of our initial audit recommendations either have been implemented or partially implemented, Rutgers continues to disagree with other recommendations concerning competition in University contracting. As current State law specifically permits Rutgers (unlike other State colleges and universities) to adopt that position, we will continue to monitor the pending legislation concerning these issues. Nevertheless, we continue to be surprised by the University's views, such as its opposition to the basic notion of broad-based advertising of contracts funded by taxpayer dollars. Rutgers' response does, however, indicate an intention to revisit the University's contracting procedures in light of its merger with UMDNJ, which we agree would be appropriate.

The Office of the State Comptroller is required by statute to monitor the implementation of our recommendations. To meet this requirement, the University shall report periodically to this Office advising what additional steps it has taken to address the unresolved issues in this report. This Office will continue to monitor those steps.

We thank the management and staff of the University for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

A handwritten signature in blue ink, appearing to read "William P. Challice".

William P. Challice, CIA, CFE, CGFM
Director, Audit Division



Office of Senior Vice President and General Counsel 848-932-7697
Rutgers, The State University of New Jersey 848-932-7813
Winants Hall Fax: 732-932-8473
7 College Avenue 732-932-6913
New Brunswick, NJ 08901-1258

July 12, 2013

William P. Challice, CIA, CFE, CGFM
Director, Audit Division
Office of the State Comptroller
P.O. Box 024
Trenton, NJ 08625-0024

Dear Mr. Challice:

Please find enclosed the University's response to your follow-up of your prior audit report of Rutgers, The State University of New Jersey covering contracting and selected financial management practices for the period July 1, 2007 to October 28, 2010.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Roesener". The signature is fluid and cursive, with a long, sweeping underline.

Robert Roesener
Associate General Counsel

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
RESPONSE TO THE FOLLOW UP REPORT OF THE STATE COMPTROLLER
CONCERNING CONTRACTING AND SELECTED FINANCIAL MANAGEMENT
PRACTICES

INTRODUCTION

Thank you for the opportunity to respond to the findings and recommendations contained in the Office of the State Comptroller's June 18, 2013 follow up of the audit report on "Rutgers, The State University of New Jersey—Contracting and Selected Financial Management Practices."

The Office of the State Comptroller (OSC) conducted fieldwork for this follow up review from March 2012 through April 2013. The University cooperated fully in this follow-up audit and, during the course of this review, the OSC audit team was given unrestricted access to information contained in the University's accounting and purchasing systems as well as all requested documentation and data supporting the University's policies, procedures, contracts, and transactions. Rutgers officials and staff members devoted hours of time to responding to questions, explaining policies and procedures, and gathering requested information, while continuing to perform their normal duties and prepare for a merger with the University of Medicine and Dentistry of New Jersey.

We continue to believe that the University's extensive procurement and contracting processes foster an open, fair, efficient, and effective competitive bidding environment that has consistently yielded high quality results at competitive prices.

Here we offer our comments and responses to the report's findings and recommendations.

OSC Recommendation 1:

The Legislature and Governor, as well as the University itself, should consider imposing on Rutgers a requirement to follow State public bidding requirements

OSC Status:Not Implemented

University Response:

The University continues to disagree that requiring Rutgers to follow State public bidding requirements would lead to lower prices for the goods and services Rutgers procures. To the contrary,, Rutgers is concerned that State public bidding requirements could unnecessarily restrict management discretion and add delay (which itself could lead to more expense) to Rutgers' procurement processes. Rutgers points out that while the OSC is recommending that Rutgers follow

State public bidding requirements, there is evidence both in New Jersey and nationwide that state policies can actually inhibit the ability of higher education institutions to maximize purchasing power, generate cost savings, and improve procurement efficiency.¹ For example, Colorado, Kansas and Virginia have, over the last decade, allowed their public higher education institutions to be more autonomous and have relaxed state procurement requirements that were seen as inhibiting institutional flexibility and thereby incurring expenses that have now been avoided with increased flexibility from state requirements. In New Jersey the December, 2010 report released by the Governor's Task Force on Higher Education (chaired by the Hon. Thomas H. Kean), cites the State College Contracts Law as an example of government regulations that "limit the flexibility of colleges and universities in New Jersey."

The OSC has failed to demonstrate that using State requirements would necessarily have resulted in better pricing. In fact, Rutgers' procurement system has resulted in several examples where the goods and services Rutgers has purchased were less expensive than the same goods and services charged under the State's system. Two examples are Rutgers' office supply contract in which Rutgers received a sixty percent discount, compared to the forty-five percent discount under the State's system, and Rutgers' office furniture contract in which Rutgers received a seventy percent discount compared to the forty percent discount under the State's system.

Rutgers also notes that high degree of autonomy accorded to Rutgers in the Rutgers Act of 1956 (N.J.S.A. 18A:65-1 et seq.) has served Rutgers well over the decades, garnering Rutgers a position in the prestigious Association of American Universities and affording the opportunity to develop an award-winning procurement group.² This autonomy has insulated Rutgers from the excessive political influence and involvement that had been a source of trouble for the former University of Medicine and Dentistry of New Jersey ("UMDNJ").

Finally, given the recent integration of most of UMDNJ into Rutgers that became effective July 1, 2013 (the preparation of which was taking place during the field work conducted by OSC) Rutgers has absorbed an entire institution's purchasing and contract management function. The integration presents a unique opportunity to combine the best attributes of both systems. Accordingly, Rutgers is now working on melding the former UMDNJ procurement team and Rutgers procurement function into one, cohesive "best in class" purchasing and contracting operation. The plans to internally develop this function are expected to unfold over the next several months. It would be extremely

¹ See, e.g., *Public College And University Procurement – A Survey of the State Regulatory Environment, Institutional Procurement Practices and Efforts Toward Cost Containment*, published by the American Association of State Colleges and Universities (AASCU) and National Association of Educational Procurement (NAEP) in 2010.

² Referring to the 2006 "Environmental Excellence Award" given by the New Jersey Department of Environmental Protection to Rutgers' Director of Purchasing in 2006.

premature, therefore to impose upon Rutgers the State public bidding requirements before Rutgers can assess its own strengths and devise a state-of-the-art internally-generated system that will operate with integrity and will include the flexibility needed to best match Rutgers' business needs and procedures.

For the above reasons and also as further set forth in Rutgers' original response to this recommendation which were included with the OSC's January 2011 report, Rutgers strongly disagrees that the recommendation is warranted. Indeed, the recommendation is at odds with observations in New Jersey and nationally. We believe its imposition could lead to unintended consequences including less efficiency and higher prices when the very opposite is the goal. Rutgers believes it should be free to develop a post-UMDNJ integration, university-wide contract management and procurement operation informed by experts operating within Rutgers who are best positioned to understand the business needs of the University and balance them with the goal of the most competitive pricing available for goods and services.

Comptroller Note 2

OSC Recommendation 2:

Revise the Policy to enhance competition for contracts exceeding \$40,000 by requiring advertising without limit to pre-approved vendors.

OSC Status: Not Implemented

University Response:

As with OSC Recommendation Number 1, and for many of the same reasons, Rutgers strongly disagrees with this recommendation. The University refers the State to its original response to this recommendation in our response to the Performance Audit dated December 20, 2010. Rutgers points out that our approach to contracting for capital projects is informed by Rutgers successful completion of over two billion dollars (\$2,000,000,000) worth of construction projects over approximately the last 10 years. This amount of construction came in on time and on budget for projects as diverse as residential buildings (dorms), teaching and research space (e.g., laboratories), infrastructure, administration space, athletics venues and deferred maintenance. Simply put, Rutgers' experience is that inviting a smaller number of well-qualified general contractors (whose experience covers the specific project at hand) leads to much more competitive and well-thought out bids than casting a wider net to draw in more general contractors who may not have the experience or ability to oversee a large, complex, and often extremely time-sensitive project.

In addition, documentation was provided to the OSC demonstrating that advertising for subcontractors and suppliers is done on capital projects through three newspapers (Star Ledger, Home News, and Trenton Times) and two online plan rooms / trade publications (McGraw Hill Construction and Reed Construction Data). Interested firms are directed to the list of pre-approved bidders.

The professional services selection specifically referenced in OSC's June 2013 report was performed in accordance with university guidelines and the OSC publication "best practices for awarding service contracts". Rutgers disagrees with the characterization that the procurement did not follow Rutgers' policies and OSC's comment that "Rutgers was unable to document with specificity..." For that particular selection, at the request of the OSC in June 2012, Rutgers provided a clear and concise explanation of the noted selection. The explanation included the date of the meeting, the names of the six senior level representatives, and specific details of the two factors about the firms that informed the selection decision. Further, Rutgers wants to highlight the fact that professional services selections are not bid for lowest cost; firms are evaluated based on many factors including experience and qualifications. It cannot be overstated how critical a quality architect/engineer firm can be for a project's success, especially one that is time sensitive. Rutgers' experience is that it is penny-wise but pound foolish to pick the more inexpensive design firm only to run into project delays and construction cost overruns, etc., because the project design was problematic or because of ineffective construction administration services.

OSC Recommendation 3:

Revise the Policy to define the criteria that permit non-competitive negotiated contracts as a procurement method.

OSC Status: Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 4:

Require documentation explaining the reasons for each non-competitive negotiation or other waiver from a competitive vendor-selection process.

OSC Status: Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 5:

Ensure that the Board of Governors approves any non-competitive contract exceeding \$1 million.

OSC Status: Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 6:

Enforce the Policy addressing waivers from competition for sole source and single source contracts.

OSC Status:Partially Implemented

University Response:

As mentioned in recommendation 4, University Procurement Services implemented a revised sole/single source process in January of 2012. Procurement Services routinely enforces the sole/single source policy and will continue to do so moving forward.

OSC Recommendation 7:

Require each vendor to submit an ownership disclosure form to facilitate enforcement of the Policy concerning the award of contracts to employees and related parties.

OSC Status:Partially Implemented

University Response:

As mentioned in the University's response to the Performance Audit dated December 10, 2010, Rutgers is not subject to public bidding laws, and therefore is not required by law to collect the Ownership Disclosure form. However, the University does, as a regular course of business, collect this form as part of its Request for Proposal process. As noted above, as Rutgers fully integrates the operations of the former UMDNJ contract management and procurement functions, Rutgers is evaluating all of its procedures, including the collection of this form, and Rutgers will ensure consistent collection of this form in its Request for Proposal processes moving forward.

OSC Recommendation 8:

Utilize the DPMC system for prequalification of contractors, architects, engineers and other construction professionals.

OSC Status:Not Implemented

University Response:

The University believes that it has implemented alternate procedures that provide for adequate

competition. In addition to the reasoning set forth under Recommendations 1 and 2 above, the University refers the State back to its original response to this recommendation in our response to the Performance Audit dated December 20, 2010. Rutgers will continue to utilize its Board of Governors approved process and will monitor the DPMC system.

OSC Recommendation 9:

Monitor adherence to revised Board policies concerning approval of employee contracts.

OSC Status:Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 10:

Monitor adherence to the University's policies and procedures that limit the use of Quick Orders.

OSC Status:Not Implemented

University Response:

The University disagrees with the OSC reported status of this recommendation. University Procurement Services implemented a Quick Order Audit process in January of 2012 to monitor the use of Quick Orders and identify violations. A process document, spreadsheet used to conduct the audit, and sample audit letter were provided to the OSC on multiple occasions. The Executive Director met with the field team and discussed the process in detail.

For the time period audited by the OSC, approximately 90,000 quick orders were processed university-wide. University Procurement Services investigated the 43 “split” transactions referred to by the OSC, and found that only 11 were “split” transactions. The Executive Director provided details to the OSC field team explaining why the other 32 were not considered violations. For example, the uniform example cited by the OSC in its report was not a split transaction. The supplier required the department to place uniform orders separately for each individual to ensure proper processing. University Procurement Services independently verified this with the supplier. Of the 11 “split” transactions 2 were flagged as part of the Quick Order Audit by University Procurement Services and the preparer and approver both received audit letters notifying them of the violation. Most of the 11 transactions were user error and not intentional violations of the Purchasing Policy.

Comptroller Note 4

OSC Recommendation 11:

Attempt to negotiate discount pricing agreements with vendors being paid substantial amounts by the University as a result of bulk or repetitive purchases.

OSC Status:Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 12:

Require the Internal Audit Department to periodically review Quick Orders to determine whether they are being used in accordance with University Policy.

OSC Status:Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 13:

Develop a comprehensive plan concerning implementation of the remaining RIAS applications, considering the cost-effectiveness of various options and the business justification for remaining implementations.

OSC Status:Not Implemented

University Response:

We concur with OCS that finding that subsequent progress on the RIAS implementation has been affected by the pending merger with UMDNJ.

OSC Recommendation 14:

Implement the recommendations concerning information technology security measures that were provided to Rutgers' officials under separate cover.

OSC Status:Partially Implemented

University Response:

The University fully implemented five of the six recommendations and, as stated in the University's response to the Performance Audit dated December 20, 2010, will not implement the sixth recommendation. The sixth recommendation required individual departments to write, publish and enforce their own policies. Rutgers establishes policies that are University-wide and Rutgers believes that requiring every department to develop their own policies will weaken security.

OSC Recommendation 15:

Using the software already purchased, automate the bank reconciliation process to increase the

efficiency of operations.

OSC Status:Not Implemented

University Response:

As mentioned by the OSC, as a result of the complex integration with UMDNJ, Rutgers is assessing the system environment and the needs of the combined institution.

OSC Recommendation 16:

Develop a clear policy that lists necessary procedures regarding cash deposits, reconciliations and the transfer of information to the University's bank accountants.

OSC Status:Partially Implemented

University Response:

The University has amended its policy to reflect the proper procedures. Many of the deposits not recorded at the time of the review were the result of timing issues, not necessarily a result of departments not following the procedures. Some of the deposits noted in the audit were transfers between two Rutgers bank accounts. The practice at the time of the review was to send cash transmittals to the Cashiers Office on a weekly basis on Wednesdays - which would be entered into the university's ledger on the following Thursday. While individual bank accounts could have unrecorded transactions as of the end of the month, the university's overall cash balance and activity on the University's balance sheets and income statements were correct.

One of the large unrecorded deposits resulted from a new employee failing to include an internal transfer between Rutgers bank accounts in the weekly cash transmittal. This was noted during the reconciliation process and corrected. Again, the University's balance sheet and income statement were correct; funds were just recorded in the wrong bank account.

Finally, for some of the deposits, the University does not always know when a student / parent / institution is sending money. Students wire transfer funds or walk into bank branches and deposit cash into the University's account without notifying the University first. The fact that deposits continue to require investigation does not necessarily mean the policy is not implemented and / or being enforced.

OSC Recommendation 17:

Periodically update policies and procedures to reflect the current operating environment including RIAS and any subsequent modifications to RIAS.

OSC Status:Implemented

University Response:

The University agrees with the OSC status and has no further comment.

OSC Recommendation 18:

Maintain a comprehensive, up-to-date list of all business offices, their functions, location and staff assigned.

OSC Status:Implemented

University Response:

The University agrees with the OSC status and has no further comment.

APPENDIX B

COMPTROLLER NOTES ON AUDITEE RESPONSE

The following comments correspond to the auditee response as indicated in the margins of the response.

- 1) It appears that the support that Rutgers is relying on for these assertions is a 2010 survey by the American Association of State Colleges and Universities and the National Association of Educational Procurement. That survey, however, has been the subject of substantial industry criticism. Noting flaws in the methodology and objectivity of the survey, the National Association of State Procurement Officials (NASPO) stated in response, “Exempting public colleges and universities from state procurement laws is completely inconsistent with sound public policy. Experience proves that a procurement system not governed by enforceable laws is a procurement system ripe for fraud, corruption, and misuse.” NASPO, *Cooperation and Collaboration in State Higher Education Procurement* (Nov. 2010), at 11. The American Bar Association’s Section of Public Contract Law was similarly critical, stating in a September 2010 letter to the survey authors that procurement laws should govern the expenditure of public funds, including such expenditures by colleges and universities.
- 2) The University has not provided us with persuasive support concerning this assertion. As New Jersey courts repeatedly have noted, competitive bidding serves a number of important purposes including placing vendors on equal footing and guarding against favoritism, extravagance and corruption. See, e.g., *Meadowbrook Carting Co. v. Borough of Island Heights*, 138 N.J. 307 (1994). The University’s merger with UMDNJ only heightens the importance of these issues, both in terms of the hundreds of millions of taxpayer dollars spent by the University on an annual basis and in highlighting the anomaly that State procurement laws apply to all other New Jersey State colleges and universities (and other State agencies), but not to Rutgers.

- 3) OSC's recommendation does not include any requirement or suggestion that such contracts must be awarded to the lowest bidder, but rather is directed to the notion of a transparent and open process. In the contract referenced in the University's response, although Rutgers officials met and discussed the selection, the only written record of the award was scoring sheets that showed that another bidder not only submitted a lower price than the winning bidder but was also ranked higher. As to the University's more general points, we simply note that inviting only 6 percent of pre-approved contractors to bid dampens competition and implicates concerns regarding favoritism.
- 4) Of the 73 Quick Orders we tested, 43 appeared to be improper "split" transactions. The University states that it does not consider 32 of those 43 to be violations of the University's policies, but we did not find the University's justification of these transactions to be compelling. For instance, concerning the example the University discusses in its response, we note that Rutgers should not circumvent its purchasing policies to accommodate a request by a vendor. The purchase of uniforms (\$6,417) exceeded the Quick Order threshold of \$5,000 and therefore three written quotes should have been obtained. In any event, even under the University's own analysis, 11 of the 73 sampled transactions were improper.
- 5) The University may have misunderstood the sixth recommendation. Consistent with OSC's prior commitment to maintain the confidentiality of these security-related issues, we will address the issue through separate communication with the University.