

A Performance Audit of Selected Fiscal and Operating Practices of Brookdale Community College

AUDIT DIVISION REPORT

Issued March 15, 2022

For the period July 1, 2015 through June 30, 2018



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Audit Authority

We performed this audit pursuant to the State Comptroller's authority set forth in *N.J.S.A. 52:15C-1 et seq.* We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards applicable to performance audits. 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.

Background

Brookdale Community College (Brookdale or the College) is a two-year institution of higher education located in Monmouth County. The College was established in 1967 and is one of 18 county colleges in the state. Brookdale's main campus is in Lincroft, with additional locations in Long Branch, Hazlet, Freehold, Neptune, and Wall. In the fall of the 2019-2020 academic year, student enrollment was 11,489. During that fiscal year, Brookdale offered 68 degree and 12 certificate programs.

The College operates under the direction of a board of trustees (Board). The Board consists of 12 members who are Monmouth County residents, including 2 trustees who are appointed by the Governor. Most members serve four-year terms. The president of Brookdale is the administrative head of the college and reports to the Board.

Executive Summary

Our audit identified weaknesses with certain fiscal and operating practices. Brookdale lacked adequate policies and procedures and key internal controls for administration and oversight in many operating areas. These deficiencies resulted in approximately \$790,000 of improperly authorized or unsupported transactions. Brookdale failed to comply with applicable federal and state laws and its own internal policies and procedures.

Specifically, our audit found that Brookdale:

- Failed to comply with applicable law for the procurement of its vendor for bookstore administration and management services, the processing and payment of overtime, and the calculation of health benefit opt-out waiver payments;
- Failed to provide adequate monitoring and oversight of its bookstore vendor to ensure implementation of the agreement terms;
- Failed to implement adequate policies and procedures addressing the processing of expenditures, cell phone allowances, and Information Technology (IT) asset recordkeeping and inventory; and
- Failed to ensure retiring employees adhered to state regulations regarding post-employment separation, leading to our referral to the Department of the Treasury, Division of Pension and Benefits, Pension Fraud and Abuse Unit.

Brookdale must improve its current practices, revise and develop policies and procedures, and increase management oversight to achieve greater operational effectiveness and to comply with state and federal laws and its own internal policies and procedures.

We make 11 recommendations to improve Brookdale's operations and its compliance with applicable statutes and regulations.

Audit Objectives

The objectives of our performance audit were to review Brookdale's controls over selected fiscal and operating practices and to assess its compliance with statutes, regulations, and its internal policies and procedures.

Audit Scope

The period July 1, 2015 through June 30, 2018

Audit Methodology

To accomplish our objectives, we reviewed relevant statutes, regulations, Brookdale's policies and procedures, collective bargaining agreements, financial records, Board meeting minutes, and other supporting records. We also interviewed certain personnel to obtain an understanding of their job responsibilities, overall operations, and Brookdale's internal controls.

As part of our review, we selected a judgmental sample of records. Our samples were designed to provide conclusions about the validity of the sampled transactions and the adequacy of internal controls and compliance with applicable statutes, regulations, policies, and procedures with regard to the same. Because we used a non-statistical sampling approach, the results of our testing cannot be projected over the entire population of like transactions or contracts.

Audit Findings and Recommendations

Overtime Compliance

Objective

To determine whether Brookdale complied with the Fair Labor Standards Act, state law, and its own policies and procedures in the approval, authorization, and payment of overtime.

Finding

Brookdale did not adhere to its policies and procedures, the Fair Labor Standards Act, or the New Jersey Wage and Hour Law in its approval, authorization, and payment of overtime. In addition, certain overtime practices were more generous than the Fair Labor Standards Act and state requirements.

Criteria

- Brookdale Policy - 3.6003R Approval and Use of Overtime
- Fair Labor Standards Act (FLSA) (29 U.S.C. §§ 201 - 219) regulations:
 - ◊ 29 C.F.R. Part 778 - Overtime Compensation
 - ◊ 29 C.F.R. Part 541 - Overtime Exemption Regulations for Executive, Administrative, Professional, Computer & Outside Sales Employees
- N.J.S.A. 34:11-56a et seq. - New Jersey State Wage and Hour Law
- N.J.A.C. 12:56-1.1 et seq. - New Jersey State Wage and Hour Regulations
- Collective bargaining agreement terms for work schedules and overtime requirements

Methodology

To meet this objective, we:

- Interviewed payroll and human resources personnel to understand employee classifications and procedures regarding the authorization, approval, and payment of overtime;
- Examined federal and state statutes and regulations related to overtime, including FLSA;
- Reviewed policies and procedures and collective bargaining agreements related to overtime; and
- Selected a judgmental sample of departments and employees with high overtime amounts to determine compliance with policies and procedures, FLSA requirements for overtime documentation, and the state requirements for timely payment of wages.

Audit Results

Federal overtime requirements are contained in FLSA. Unless exempt,¹ employees covered by FLSA must receive overtime pay when more than 40 hours are worked in a workweek and at the rate of one and one-

¹ <https://www.dol.gov/agencies/whd/fact-sheets/17a-overtime>

half their regular rate of pay. FLSA requires evidence of daily and weekly hours worked to substantiate an employer's compliance with determining regular work and overtime hours.

Inadequate Policies and Procedures

Brookdale's policy for overtime administration was vague. It did not define relevant requirements of FLSA, such as employee classifications, defining a workweek, or timekeeping requirements. Additionally, the policy did not address specific provisions of Brookdale's collective bargaining agreements or the responsibility for oversight and monitoring of overtime approval and processing. Brookdale failed to obtain Board approval of its policies and procedures until April 2019.

Noncompliance with FLSA

We judgmentally selected a sample of 16 salaried, non-exempt employees that included 6 police officers from the Police Department; 4 plant operators from the Physical Plant Department; and 6 employees from the Chemistry, English, Events Management, and Radio Station departments. Our testing included verification of 163 overtime transactions; we found exceptions with all 163. These exceptions included a lack of evidence to support the total hours worked in the workweek; overtime that was not paid within 10 days after the pay period ended; omission of the reason or justification for overtime; the absence of a supervisory approval signature or employee signature on overtime forms; and submission of multiple overtime forms in a pay period.

Our review found that Brookdale failed to require evidence of all hours worked to ensure overtime was paid properly. Brookdale did not require salaried, non-exempt employees to keep a formal timesheet reporting all hours worked in the workweek. Timesheets were only required for hourly employees and for overtime hours worked. The Payroll Department relied on the supervisors to oversee time and overtime submissions and did not confirm that overtime hours were calculated correctly. Supervisors were responsible for FLSA compliance, but they were not aware of the requirements. Brookdale officials asserted that a supervisor's signature on a timesheet reflected the supervisor's approval of an employee having worked 40 hours before receiving overtime pay.

State Law Violation

We found that Brookdale did not comply with *N.J.S.A. 34:11-4.2*, which requires that employees must be paid no later than 10 days after a pay period ends. Our review noted 27 instances of employee overtime payments that were not paid in accordance with state law. In one instance, an employee who worked overtime in March 2018 was paid six months later. The employee signed the overtime timesheet on August 21, 2018, and the supervisor signed the timesheet on September 13, 2018. The employee was paid on September 30, 2018, for overtime worked in March 2018. This particular employee had eight other instances of late overtime payments. When questioned, the supervisor reported that the overtime payments were not timely due to the employee submitting the timesheets late to the supervisor or the supervisor submitting them late to the Payroll Department.

Generous Collective Bargaining Agreement Terms

We found that Brookdale's collective bargaining agreements did not consistently include provisions addressing overtime. One agreement allowed the employee's use of sick time to be included as part of the 40-hour workweek when calculating overtime. This is more generous than Brookdale's other collective bargaining agreements and the standards set by FLSA and state law.

Summer Hours

Brookdale employees covered under the Professional Staff Association (PSA) collective bargaining agreement were entitled to work reduced hours during the summer months, June 1 through August 15. The workday during that period was reduced from 7.5 hours to 7 hours. Because the Physical Plant Department operations must maintain coverage 24 hours a day, 7 days a week in three eight-hour daily shifts, plant operators – who worked under the PSA – could not work reduced hours. In lieu of the one-half hour reduction in the workday, plant operators received one-half hour of overtime pay for every eight hours worked. There was no provision in the collective bargaining agreement, nor anywhere in writing, that supported the overtime practice for these employees. In addition, one plant operator was paid the one-half hour of overtime on four separate occasions when records show he was on vacation. Brookdale officials could not provide an explanation for these overtime payments.

Cause

Brookdale did not consistently follow its own policies and procedures when authorizing and paying overtime. In addition, Brookdale relied on supervisors who were not properly trained to implement FLSA requirements when approving employees' overtime payments.

Effect/Potential Effect

Without adequate policies and procedures or appropriate management oversight and monitoring, an inconsistent process of approval and use of overtime may lead to unauthorized overtime payments to employees.

Recommendations

1. Revise policies and procedures with specific actions that address all aspects of the federal and state law requirements to ensure consistent compliance with the Fair Labor Standards Act and New Jersey Wage and Hour Law. These procedures must include appropriate management monitoring and oversight.
2. Provide training concerning the Fair Labor Standards Act and New Jersey requirements on overtime to all staff involved in the administration of overtime.
3. Seek to renegotiate the terms of any collective bargaining agreements to eliminate overtime that is more generous than the Fair Labor Standards Act and state law. In addition, ensure that the overtime provisions for all employees are included in future agreements.

Expenditures

Objective

To determine whether payments for goods and services were processed in compliance with policies and procedures.

Finding

Brookdale's policies and procedures and controls were inadequate. These deficiencies resulted in approximately \$790,000 of improperly authorized or unsupported transactions.

Criteria

- Brookdale Purchasing Manual (Manual) dated 2014
- Brookdale Internal Control and Standard Operating Procedures Handbook Draft (SOP) dated 2019
- Brookdale Policy - 4.3501R *Travel, Mileage, and Other Reimbursable Expenses*

Methodology

To meet this objective, we:

- Interviewed personnel responsible for purchasing;
- Identified the universe of payments for FYs 2016 - 2019 in 39,592 transactions totaling \$158,068,088;
- Selected a random sample of 60 transactions totaling \$8,402,916; and
- Performed testing of the sampled transactions to verify that payments were processed in compliance with policies and procedures, which required each transaction to have a pre-approval; a purchase requisition; a purchase order; a receiving ticket; an invoice with itemized receipts; and an approval by appropriate officials.

Audit Results

Brookdale has a designated Purchasing Department (Department) that is responsible for the procurement and awarding of contracts for goods and services. The Department is headed by a manager who is designated the qualified purchasing agent (QPA) and who is responsible for overseeing and approving all procurement and contracting for the College. The purchasing practices are documented in the Manual and supported by the SOP. Staff can access certain additional policies and procedures on the College website, but the Manual and the SOP are not posted publicly. In reviewing the policies on the website, we found that they supplemented the procedures in the Manual and the SOP.

Purchasing Policies and Procedures

Our review of the Manual and the SOP found that the procedures and processes were inconsistent and that staff responsibilities were outdated or inaccurate. For example, the Material and Services Director position was eliminated in 2015. The function of this position was to approve all purchase orders. The Manual was not updated to reflect a new process for purchase order approvals until 2018.

Although Brookdale had detailed policies and procedures, we found they were not followed and were not

communicated to all staff. Through conversations with finance and purchasing officials, we learned that staff had different views regarding whether to follow the Manual or the SOP. We also learned that Brookdale did not provide formal training on its policies and procedures, which led to confusion among the staff regarding the current processes.

The confusion regarding the policies and procedures may stem from the lack of formal Board approval and communication to staff of the current processes. The 2014 Manual and the 2019 SOP never received Board approval. The Manual was updated again in 2018, but the College did not provide evidence that it received Board approval.

Bookstore Purchasing

The Manual required all purchases to be executed through the Department. Our testing found that the bookstore staff did not use the Department for its purchases. The bookstore purchased textbooks and supplies without appropriate oversight and without approval or authorization by the appropriate officials.

Purchasing

Our testing included review of the supporting documentation for 60 sampled expenditure transactions to verify compliance with policies and procedures.

We found that Brookdale did not comply with its policies and did not maintain adequate supporting documentation for expenditures. We found exceptions with 46 of the 60 sampled transactions, or approximately 77 percent. These exceptions included missing and incomplete forms and supporting documentation for pre-approvals, purchase requisitions, purchase orders, and receiving tickets. In addition, we found that documents related to the transaction did not include requirements of the transaction, including, among other things, justification for out-of-state travel, reimbursement of per diem rates for hotels that exceeded the federal per diem rates, and missing or insufficient receipts to substantiate the nature and purpose of the trip and/or the attendees. In some instances, we were unable to determine if the use of public funds was reasonable or necessary to fulfill a legitimate College purpose.

Examples of our findings include:

- Catering events for internal employee meetings or student club activities without details or documentation regarding the event, such as the nature, purpose, or attendees of the meeting. Most events did not include a meeting agenda, meeting minutes, roster, or sign-in sheet. Although the policies and procedures require the details of the meeting or event to be submitted for approval through an online portal, no such evidence of the requests or approvals were provided.
- Athletic teams often traveled out-of-state for regular and post-season games. Many of the trips were not pre-approved and involved cash advances that were not reconciled at the conclusion of the trip as required. In one instance, student athletes did not certify that they had received the meal allowance for the game as required by policies and procedures.
- Officials authorized a trip for five employees that included tickets for the Acela train to Boston without justification of the additional cost. The five employees returned on the regular Amtrak train.

Cause

Brookdale lacked appropriate controls and oversight activities to ensure compliance with its policies and procedures. In addition, the lack of formally adopted policies and procedures that were not communicated to staff created an environment of confusion as to which policy or procedure to follow.

Effect/Potential Effect

The lack of appropriate controls and oversight resulted in noncompliance and increased the risk of fraud, waste, and abuse. These deficiencies prevented management and the Board from identifying opportunities to improve operations.

Recommendations

4. Revise policies and procedures to implement appropriate controls to ensure compliance with all requirements of the purchasing process, with particular attention to the exceptions noted in this report. The procedures must include appropriate monitoring and oversight activities to ensure that internal controls are working effectively.
5. Obtain Board approval for all revised policies and procedures. Disseminate the Purchasing Manual, Internal Control and Standard Operating Procedures Handbook, policies and procedures, and provide training to all staff.

Health Benefit Waivers

Objective

To determine whether Brookdale provided health benefit opt-out waiver payments in accordance with statutory requirements.

Finding

Brookdale did not have adequate controls to monitor health benefit opt-out waiver payments, resulting in payments made that were not in accordance with statutory requirements.

Criteria

- N.J.S.A. 18A:64A-13.1 - County College Employee Permitted to Waive Health Care Coverage
- N.J.S.A. 52:14-17.31a - Employee Permitted to Waive Benefits Coverage under State Health Benefits Program
- New Jersey Division of Local Government Services, Local Finance Notice 2016-10

Methodology

To meet this objective, we:

- Interviewed personnel responsible for benefit administration;
- Reviewed statutes and regulations related to health benefit opt-out waiver payments;
- Identified the universe of health benefit opt-out waiver payments for FYs 2016 – 2018 that totaled \$997,862;
- Selected a judgmental sample of 75 health benefit opt-out waiver payments for 27 employees totaling approximately \$317,000; and
- Performed testing of the sampled health benefit opt-out waiver payments to verify the payments were made in compliance with statutory requirements.

Audit Results

Brookdale participates in the State Health Benefits Program. In accordance with N.J.S.A. 52:14-17.31a and N.J.S.A. 18A:64A-13.1, the College provides health benefit opt-out waiver payments to employees that waive insurance coverage from Brookdale when they are covered by another plan. The waiver payments are limited to the lesser of 25 percent of the amount saved by the College or \$5,000.

Our audit found that Brookdale did not have adequate controls in place to ensure that it processed health benefit opt-out waiver payments in compliance with state statutes and regulations. Brookdale did not calculate the amount saved by the College for each employee who waived coverage. Instead, Brookdale personnel averaged the health premiums by coverage type to obtain the waiver amount. Brookdale officials informed us that in recent calculations they subtracted the average of the contributions from the premiums. Pursuant to N.J.S.A. 18A:64A-13.1, the calculation of the amount saved by the College is to be done for each employee who waives coverage. In addition, Local Finance Notice 2016-10 issued by the New Jersey Department of Community Affairs, Division of Local Government Services states that when calculating an employee's waiver payment, the employee's healthcare contribution obligation must be deducted from the total premium cost and calculated annually.

Cause

Brookdale did not have proper procedures in place to ensure that health benefit opt-out waiver payments were calculated correctly and in accordance with statutory requirements.

Effect/Potential Effect

Inadequate monitoring and oversight of benefits administration may result in incorrect waiver payments that violate statutory requirements.

Recommendation

6. Develop policies and procedures for the administration of health benefit opt-out waiver payments that include controls to ensure that payments are accurate and in accordance with state law.

Cell Phone Allowances

Objectives

- *To determine whether Brookdale complied with its policies and procedures in the request, approval, and monitoring of cell phone allowances.*
- *To assess whether Brookdale's cell phone allowances were cost-efficient.*

Finding

Brookdale's processing of monthly cell phone allowances was not in accordance with its policies and procedures. In addition, management did not assess the continued business need for nor cost-effectiveness of its monthly cell phone allowances.

Criteria

- Brookdale Policy - 4.3100R Cell Phones and Mobile Devices

Methodology

To meet these objectives, we:

- Interviewed relevant staff;
- Reviewed policies and procedures regarding cell phone allowances;
- Analyzed service plans for two national cell phone providers; and
- Verified that the monthly cell phone allowances paid to 21 employees during the period July 2015 through May 2019 were processed pursuant to policies and procedures.

Audit Results

In 2013, Brookdale implemented a monthly cell phone allowance for employees deemed critical to daily operations. The monthly allowance was established to reimburse employees for use of their personal cell phones for College business.

Employees identified as critical and approved for the cell phone allowance by their supervisor were subject to approval by the department head, vice president for business and finance, and the President. Formal request forms required an explanation regarding the critical need and submission of the employee's cell phone contract.

For the period July 2015 through May 2019, 21 employees received a monthly cell phone allowance. These employees included high-level directors, vice presidents, deans, first responders, and facilities staff. Three employees received an allowance of \$25; 7 employees received \$60; and 11 employees received \$100.

Our review evaluated whether the request forms for all 21 employees included all required signatures, documented the critical need, and included a copy of the employee's personal cell phone contract. Our audit found exceptions with all 21 request forms, including 1 form that was not provided, 14 forms that lacked all of the required approvals, and 18 forms that were missing a copy of the employee's personal cell phone contract.

In addition to the 3 personal cell phone contracts we initially received, we requested the current contracts for the remaining 18 employees who had not submitted their contracts. We received the cell phone contracts for 8 of the 18 employees. Our review of all 11 cell phone contracts noted that 9 employees were approved for monthly cell phone allowances that were higher than their personal monthly service charges.

Our audit also found that Brookdale did not have established criteria for determining the monthly allowance amounts. Furthermore, the College had not conducted any cost analysis, such as monitoring of actual cell phone usage, comparing its cell phone allowance amounts to the employees' personal cell phone service charges, or determining the reasonableness of its monthly allowance rates with the service plans of the providers. Employees received additional income when the monthly cell phone allowance amount exceeded their personal monthly cell phone service charge. In one instance, 2 employees who paid \$25 and \$51 monthly for their cell phone service received a monthly allowance of \$100.

Finally, as demonstrated by the absence of required documentation, we found that Brookdale did not evaluate which staff were critical to daily operations and thus in need of a cell phone.

Cause

Brookdale's policies and procedures were not adequate and did not define the specific business functions, job duties, or responsibilities that were deemed critical to daily operations and did not establish the criteria for the monthly allowance amounts. Brookdale also failed to implement controls to ensure compliance with the approval process. In addition, Brookdale did not evaluate the cost-effectiveness of the cell phone allowances.

Effect/Potential Effect

The lack of well-defined policies and procedures for cell phone allowances increases the potential of fraud, waste, and abuse. In addition, failure to evaluate the cost-effectiveness of the monthly allowances may result in missed opportunities for cost savings.

Recommendation

7. Conduct a thorough assessment of the need and cost-effectiveness for cell phone allowances that takes into consideration the issues noted in this report, assessment of the employees' critical need, job duties and responsibilities, and actual cell phone usage. Based on the assessment, revise policies and procedures to include discussion of all relevant aspects of cell phone allowances (such as critical need, eligibility, allowance rates, and monitoring).

Procurement of Bookstore Operation and Management Services Contract

Objective

To determine whether Brookdale complied with the County College Contracts Law and other applicable state law for the procurement and award of its bookstore operation and management services contract.

Finding

Brookdale did not comply with the County College Contracts Law and other applicable law in its award of the contract for operation and management of the bookstore.

Criteria

- N.J.S.A. 18A:64A-25.1 to - 25.43 - County College Contracts Law (CCCL)
- N.J.S.A. 19:44A-20.4 - Contributors to County Committee of Political Party of Elective Officers (Pay to Play)
- N.J.A.C. 17:44-2.2 - Authority to Audit or Review Contract Records (Records Retention Language)

Methodology

To meet this objective, we:

- Interviewed personnel responsible for procurement;
- Reviewed policies and procedures regarding purchasing;
- Examined the CCCL and other relevant statutes and regulations; and
- Reviewed the procurement files for the bookstore contract awarded and all supporting documentation to determine compliance with the CCCL.

Audit Results

In February 2018, Brookdale issued a request for proposals (RFP) that sought a vendor to provide college bookstore operation and management services at the Lincroft campus as well as management of an online bookstore website, with the vendor paying Brookdale a commission based on bookstore sales. Brookdale posted a notice of the RFP on its website, but did not advertise a notice in a newspaper. Brookdale also sent the RFP to two potential vendors, and five others requested the RFP. The RFP included evaluation criteria to rank and select the successful contractor and specified that there would *not* be a public opening of proposals. The RFP provided that the award would be based on “the most advantageous combination of qualifications and price.” The contract was awarded in March 2018 for a term of three years, beginning May 24, 2018 through May 31, 2021, with an option to renew for two additional one-year terms.

We found that Brookdale’s procurement process did not comply with the CCCL. Generally, all purchases or contracts by county colleges require public advertisement for bids and must be awarded to the lowest responsible bidder, unless the subject matter falls under a statutorily specified exception. N.J.S.A.

18A:64A-25.5 and -25.19. Brookdale's Vice President of Finance and Operations stated that the contract for operation and management of the campus bookstore was not publicly advertised because Brookdale relied on the exception listed in *N.J.S.A. 18A:64A-25.5(a)(21)*:

Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a county college bookstore, or by a service or management company under contract with a county college to operate a county college book store for resale to college students and employees.

However, this exception is limited to the purchase of educational supplies and other items purchased by a county college or a management company operating a campus bookstore. Significantly, neither this exception, nor any other exception listed in *N.J.S.A. 18A:64A-25.5(a)*, addresses the outsourcing of bookstore operation and management to an outside party.² We further note that the CCCL does not authorize a county college to issue a request for proposals and award a contract over the bid threshold on the basis of "the most advantageous combination of qualifications and price."

We also found Brookdale failed to comply with the New Jersey "Pay to Play" Act. P.L. 2004, c. 19, *N.J.S.A. 19:44A-20.4*. The Pay to Play Act prohibits a government entity from entering into a contract valued in excess of \$17,500 with a business entity unless the intended awardee certifies that it has not made a disqualifying political contribution or the contract is awarded pursuant to a fair and open process.³

Here, Brookdale, did not require or obtain disclosure of political contributions from the successful vendor. In addition, we found that the procurement did not comply with the fair and open process which, at a minimum requires: (1) that the contract be publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract; (2) that the contract be awarded under a process that provides for public solicitation of proposals or qualifications and awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and (3) that the contract be publicly opened and announced when awarded. *N.J.S.A. 19:44A-20.7*. The RFP issued by Brookdale stated that "[t]here will not be a public opening of the Proposals," which is inconsistent with the third required criterion above and undermined transparency.

Moreover, in addition to failing to use the correct procurement process, Brookdale failed to follow the evaluation standards it set forth in the RFP. The RFP established "criteria for selection" such as business plan, transition plan, and experience, along with pre-determined percentage weights, but Brookdale has been unable to provide any evidence that it evaluated proposals based on criteria other than price. Brookdale provided a bid tabulation that merely compared pricing and verified mandatory form submission. When asked to provide an evaluation report or summary that outlined the scoring of the enumerated criteria in the RFP, Brookdale failed to do so.

As noted in OSC's report issued March 4, 2010 *"Best Practices for Awarding Service Contracts,"*⁴ all scoring processes and award recommendations should be well-documented and retained for an appro-

² Compare the exceptions to bidding under the State College Contracts Law, which specifically includes "management contracts for bookstores, performing arts centers, residence halls, parking facilities and building operations" as exempt from public bidding at *N.J.S.A. 18A:64-56(a)(24)*. Such exception is in addition to an analogous exception in CCCL as noted above: "[e]ducational supplies, books, articles of clothing and other miscellaneous articles purchased by a State college for resale to college students and employees." *N.J.S.A. 18A:64-56(a)(21)*.

³ See Attorney General's Opinion concerning application of "Pay to Play" Act to county colleges at: https://www.nj.gov/dca/divisions/dlgs/resources/poli_docs/cntycolleges.pdf

⁴ https://www.nj.gov/comptroller/library/service_contracts_report.pdf

priate period of time. Such documentation ensures that the procurement process was transparent, accountable in its method of vendor selection, and defensible should a bid protest arise. Brookdale's lack of an evaluation report or documentation that RFP criteria were considered in making an award failed to demonstrate that the evaluation criteria included in the RFP were followed.

As discussed above, Brookdale relied on an inapplicable exception to public bidding under the CCCL and therefore a notice of the RFP should have been advertised in a newspaper. To the extent it relied on the fair and open process, Brookdale failed to publicly open proposals and properly document its scoring and evaluation methodology, which resulted in the College entering into a contract that violated the "Pay to Play" Act. These errors exposed the College to waste and fraud and undermined the integrity of the procurement process through a lack of transparency.

Cause

Brookdale failed to follow the CCCL when it awarded the contract for the operation and management of its bookstore.

Effect/Potential Effect

Brookdale's noncompliance with the CCCL and its policies and procedures may result in improperly awarded contracts and a lack of transparency in spending.

Recommendation

8. Revise policies and procedures to ensure that future contracts are procured and awarded in compliance with state law and internal policies and procedures, including, but not limited to, the procurement processes set forth in the County College Contracts Law and the "Pay to Play" Act.

IT Inventory

Objective

To determine whether Brookdale had adequate controls for the recordkeeping and tracking of its Information Technology (IT) inventory.

Finding

Brookdale did not have adequate policies and procedures for the recordkeeping, tracking, or disposition of IT assets. In addition, Brookdale did not have policies or procedures for verification of the actual inventory and did not conduct a physical inventory.

Criteria

- Brookdale Policy - 2.9002R Computer Deployment and Replacement Regulation
- Office of Information Technology (OIT) Operational Manual

Methodology

To meet this objective, we:

- Interviewed officials responsible for the acquisition and disposition of IT inventory;
- Reviewed policies and procedures regarding IT inventory;
- Obtained a population of IT inventory for 2,529 assets as of July 2018; and
- Selected a random sample of 22 computers to verify the physical location compared to the inventory records.

Audit Results

Brookdale's policy required all new computers to be logged and tracked in an inventory tracking system. The system included tracking of, among other things, a description of the asset, service tag number, the user, and the location of the asset. The policy did not require a periodic inventory or other physical verification of the assets.

Our audit included a physical inspection of 22 computers to verify the user and location. We noted discrepancies with the inventory records for 4 of the 22, or 18 percent, of the sampled computers. These exceptions resulted from inventory records that were inaccurate as to the location and/or assigned user. In one instance, the status of a computer that was discarded in February 2017 had not been updated in the inventory records. The College failed to implement appropriate controls regarding assets that are easy to move and susceptible to theft, loss, or misuse.

Cause

Brookdale did not have sufficient policies and procedures or adequate controls to accurately record the details of its IT inventory and did not conduct a physical inventory.

Effect/Potential Effect

The failure to ensure accurate recordkeeping for IT assets and to conduct periodic inventory inspections may contribute to the misuse, loss, or theft of these assets.

Recommendation

9. Update policies and procedures that provide for verification and timely update of IT inventory records based on the asset status. The procedures should require periodic physical inventory and supporting documentation for all IT asset records.

Bookstore Contract Compliance

Objective

To determine whether Brookdale monitored its bookstore agreement for compliance with key requirements.

Finding

Brookdale failed to provide adequate oversight to ensure that all terms of the Bookstore Operating Agreement were fulfilled.

Criteria

- Bookstore Operating Agreement (Agreement) between Brookdale and vendor

Methodology

To meet this objective, we:

- Interviewed appropriate personnel;
- Examined the Agreement;
- Reviewed plans, specifications, and invoices for improvements to the bookstore; and
- Verified the vendor's insurance coverage during the Agreement period.

Audit Results

Improvements and Point-of-Sale Upgrades

In May 2018, Brookdale entered into an agreement with an outside vendor to operate its bookstore at the Lincroft campus. The Agreement included provisions requiring the vendor to complete bookstore improvements, stating that the vendor "shall spend up to a total of \$450,000 to improve" the bookstore. The Agreement stated that Brookdale would review and approve the vendor's plans and specifications for the improvements. The Agreement indicated that the College and the vendor would work closely to "develop mutually acceptable plans" and that the College would have final approval over all plans.

Brookdale provided us a list of the improvements made to the bookstore that included information such as the purchase date, invoice number, and cost. The vendor spent approximately \$283,130 on improvements. Brookdale did not provide evidence that they reviewed and approved the plans and specifications for the improvements or that they determined that it was not necessary to spend the full committed amount of up to \$450,000. Additionally, Brookdale could not provide invoices to support \$13,576 of the \$283,130 spent by the vendor.

The Agreement also specified that the vendor would invest up to \$40,000 for the installation of the point-of-sale and store management systems. Brookdale provided a list of improvements that included seven invoices for upgrades to the point-of-sale and store management systems for approximately \$15,000. Brookdale could not provide invoices to support these upgrades or any documentation that would confirm they approved the invoices.

Insurance

The vendor was required to carry, at its own expense, specific types and amounts of insurance. One of the insurance requirements was excess or umbrella liability coverage of at least \$3 million. We found that the vendor failed to carry the required amount for two of the three insurance coverage periods we tested. Specifically, the vendor only maintained \$1 million of umbrella coverage.

Cause

Brookdale failed to provide the oversight required to ensure that all terms of the Agreement were followed and that the vendor was effectively performing its contractual duties.

Effect/Potential Effect

Brookdale's failure to oversee and document its management of the Agreement resulted in a lack of clarity regarding whether the contract terms were met involving the bookstore improvements and in increased risk to the College. A lack of accountability regarding bookstore operations could lead to waste and abuse.

Recommendation

10. Improve oversight and monitoring to ensure vendor compliance with key requirements of the Bookstore Operating Agreement.

Bona Fide Retirement

Objective

To determine whether retired Brookdale employees were in compliance with state regulations regarding reemployment and bona fide retirement.

Finding

Two employees retired from Brookdale and immediately were reemployed in a manner that may have violated state regulations.

Criteria

- N.J.A.C. 17:1-17.14 - Retiree Reemployment
- Agreement between Brookdale and vendor

Methodology

To meet this objective, we:

- Interviewed Brookdale officials;
- Reviewed state regulations regarding retiree reemployment; and
- Examined the Agreement.

Audit Results

In May 2018, Brookdale entered into an Agreement with a vendor to operate its bookstore. We were advised by officials that as a result of the privatization of bookstore operations, two employees retired from Brookdale and were immediately employed by the vendor.

College officials informed us that these two employees were primarily performing the same duties with the vendor as they had been while employed by Brookdale. The two employees started their employment within one day of their retirement from Brookdale. "Bona fide severance" requires a complete termination of an employee's employment relationship with the employer for a period of at least 180 days. Furthermore, post-employment restrictions prohibit retirees from engaging in certain reemployment activities such as retiring with a "pre-arranged agreement for reemployment." N.J.A.C. 17:1-17.14(a)(2)(v). Since the employees' separation was less than the 180 days required by N.J.A.C. 17:1-17.14, we have referred this matter to the Department of the Treasury, Division of Pension and Benefits, Pension Fraud and Abuse Unit for their determination of any actions regarding violations of state regulations.

Cause

Brookdale officials failed to ensure that retiring employees maintained the required separation of service required by state regulations.

Effect/Potential Effect

Brookdale's failure to follow state guidelines regarding post-employment separation may have violated the state pension regulations and resulted in non bona fide retirements.

Recommendation

11. Implement procedures to ensure retiring employees are aware of post-employment restrictions imposed by state regulations.

Reporting Requirements

We provided a draft copy of this report to Brookdale officials for their review and comment. Brookdale generally agreed with our audit findings and conclusions, and its response indicated the College has taken steps and will continue to implement corrective actions to address our recommendations. Brookdale's comments were considered in preparing our final report and are attached as Appendix A.

We are required by statute to monitor the implementation of our recommendations. In accordance with *N.J.A.C. 17:44-2.8(a)*, within 90 days following the distribution of the final audit report, Brookdale is required to provide a plan detailing the corrective action taken or underway to implement the recommendations contained in the report and, if not implemented, the reason therefore. We will review the corrective action plan to evaluate whether the steps taken by Brookdale effectively implement our recommendations.

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



BROOKDALE
COMMUNITY COLLEGE

Office of the Vice President, Finance & Operations

March 1, 2022

Mr. Christopher Jensen
Acting Audit Deputy Director
Office of the State Comptroller
P.O. Box 024
Trenton, NJ 08625-0024

Dear Mr. Jensen;

Please accept the following information as Brookdale Community College's response to the Performance Audit conducted by the New Jersey Office of the State Comptroller for the period July 1, 2015- June 30, 2018.

During the selected audit period of July 1, 2015 through June 30, 2018, the College experienced significant transitions in its senior leadership as well as changes in its Board of Trustees' leadership. In late June and early July of 2017, the College had both an Interim President and an Interim Executive Director of Finance. The College's Vice President of Finance (CFO) position also became vacant until filled by an Interim CFO. Over the last three fiscal years, leadership has stabilized, and processes have been reviewed and refined to better serve the College and community.

Objective 1: Overtime Compliance

The College will review and revise its current policies and procedures to ensure compliance with the Fair Labor Standards Act and NJ Wage and Hour Law.

The College will train current employees on the oversight and approval process regarding overtime hours. This training will also be part of the new employee orientation.

The College will also review the collective bargaining agreements to ensure that the language includes the overtime provisions for all employees.

Objective 2: Expenditures

Effective October 2019 the College's Standard Operating Procedure Manual was updated by each department manager in the Finance Division and submitted for review by the VP of Finance and Operations (and continues on an annual basis). These changes are presented to the Audit Committee of the Board of Trustees and accepted by the full Board of Trustees at the next public meeting.

The College will continue to communicate and disseminate current procedure manuals to ensure that staff are educated and trained on the current policies.

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The College is in the process of revising the 4.8 Contracts and 4.2 Public Contracts Policies to reflect up-to-date guidance and procedures.

In 2021 the College engaged their internal auditors to conduct an audit the College's current employee travel and food expense reimbursement process. The findings and recommendations from that audit were presented to the College's Audit Committee of the Board of Trustees on December 10, 2021. The College has already implemented many of the recommendations that resulted from that review.

Objective 3: Health Benefit Waivers

The College will update the policies and procedures for the administration of health benefit opt-out waiver payments. To ensure that payments are accurate and in accordance with State law, the determined waiver amount will be calculated by the College's Benefits Administrator and verified and signed off by the Associate Vice President of Human Resources.

Objective 4 & 5: Cell Phone Allowances

In February 2020 the College performed an assessment of their cell phone allowance policy. The focus of the review was to determine which positions should be eligible for stipend, what the appropriate stipend amount should be, review of the regulation, and review of the supporting documentation on file. As a result of that assessment, the College reduced the number of employees receiving stipend from 14 to 5.

The College is in the process of updating the current policy, regulation, and the internal Cell Phone Allowance Request Form. The revised procedures will require an annual review as well.

Objective 6: Procurement of Bookstore Operation and Management Services Contract

The College has implemented policies and procedures to ensure that future contracts are procured and awarded in compliance with the State law and internal policies and procedures, including but not limited to, the procurement processes set forth in the County College Contracts Law and the "Pay to Play" Act. In the future, the College will bid the management and operation of the bookstore by advertising in the newspaper, having a public opening of the bid, and awarding to the lowest bidder followed by the Board's approval and resolution.

This RFP was reviewed by our attorney and approved to proceed. Criteria for Selection was also stated within the RFP. The College will continue to collaborate with our attorneys on complex Bids and RFPs to ensure compliance with all applicable laws.

The College believes that the current policies and procedures are adequate; however, we understand and acknowledge that this RFP contained inefficiencies. The College has updated its RFP template to include the recommendations in this audit. The College will enforce its current procedure that end-users will provide their scoring sheets and recommendations according to the Criteria of Selection.

Objective 7: IT Inventory

On August 22, 2019, 2.9002R Computer Deployment and Replacement Regulation was approved. The Regulation was developed, reviewed, and recommended by IT governance to establish rules, procedures, and standards to govern the deployment and lifecycle replacement of computer hardware purchased and supplied by Brookdale Community College.

The Office of Information Technology will also revise operating procedures, controls and use of the current inventory and asset management system to address the recommendation to include the following:

- Revise inventory and asset management procedures related to Acquisition, Deployment, Relocation, Redeployment, and Offboarding that includes the requirement for timely updates to asset information including but not limited to, owner, location, and department information
- Revise inventory and asset management procedures related to the internal unit Recycle Program and Disposal Procedures that includes the requirement for timely updates to asset information including but not limited to, owner, location, and department information
- Include additional information in the Standard Operations and Procedures Manual on the current procedures for secure storage and on-site hard drive shredding for the secure destruction of digital media; review and revise the processes used to track and document the completion of the procedures to better include the IT Service Management system
- Establish a twice annual review of the Inventory and Asset information in the KACE system management application to ensure timely asset updates are occurring and to review the current and future IT asset usage and lifecycle are in alignment with regulation 2.9002R; review and revise the processes used to track and document the completion of the twice annual review to include the IT Service Management system and create a trackable record of the review and asset status at the time of review

Objective 8: Bookstore Contract Compliance

The College will develop an internal process that will assign the management and oversight of each contract as they are awarded.

Objective 9: Bona Fide Retirement

The College currently provides retirement information to employees, including Fact Sheet 86, which explains the required break in service and employment after retirement. The fact sheet is also on the College's Benefits Webpage under the Retirement tab. Considering the audit results from the NJOSC's audit, the College will not knowingly engage in any contractual agreements with third party vendors that could potentially violate N.J.A.C. 17:1-17:14.

Brookdale Community College would like to thank the Office of the State Comptroller for their time conducting this audit. We appreciate the opportunity to review the recommendations and we are committed to continually strengthening our policies and procedures.

Sincerely,



Teresa Manfreda
Vice President Finance & Operations, CFO