

TEXAS HIGHER EDUCATION COORDINATING BOARD

Committee on Agency Operations

1200 EAST ANDERSON LANE, BOARD ROOM 1.170
AUSTIN, TEXAS

2:00 P.M., January 23, 2019

*John T. Steen, Jr.,
Chair
Ricky A. Raven
Vice Chair
S. Javaid Anwar
Fred Farias III, O.D.
Michael J. Plank
Michelle Q. Tran
Student Representative,
Ex-Officio
Stuart W. Stedman, Ex-
Officio*

PUBLIC TESTIMONY: The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or any other time. For procedures on testifying, please go to http://www.theccb.state.tx.us/public_testimony.

I. Welcome and Committee Chair's Opening Remarks

II. Consideration of Approval of the Minutes from October 24, 2018, Committee Meeting

III. Public Testimony on agenda items relating to the Committee on Agency Operations

IV. Agency Operations

- A. Report on grants and contracts, including those exceeding \$1 million
- B. Update on the Board's Legislative Appropriations Request to the 86th Texas Legislature
- C. Consideration of adopting the staff's recommendation to the Committee relating to the acquisition of contract services for Phase I of the Identity and Access Management (IAM) Modernization Project
- D. Consideration of adopting the Commissioner's recommendation to the Committee relating to the certification of gifts that are fundable through the Texas Research Incentive Program for the Emerging Research Universities
- E. Consideration of adopting the staff's recommendation to the Committee relating to amending the Board Operating Policies and Procedures

V. Finance

- A. Review of the Fiscal Year 2019 Financial Report to the Board

VI. Internal Audit

- A. Update on Internal Audit Reports and Activities

VII. Compliance Monitoring

- A. Update on Compliance Monitoring Reports and Activities
- B. Consideration of adopting the staff's recommendation to the Committee relating to the Amended Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2019

VIII. Adjournment

The Texas Higher Education Coordinating Board Committee on Agency Operations may convene in Executive Session at any point in this meeting, concerning any item listed in the agenda or to seek or to receive its attorney's advice on legal matters related thereto, pursuant to Texas Government Code Ann. 551.071.

Note: The Board will not consider or act upon any item before the Committee on Agency Operations at this meeting. This meeting is not a regular meeting of the full Board. Because the number of Board members who may attend the committee meeting may create a quorum of the full Board, the meeting of the Committee on Agency Operations is also being posted as a meeting of the full Board.

Texas Penal Code Section 46.035(c) states: "A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter." Thus, no person can carry a handgun and enter the room or rooms where a meeting of the THECB is held if the meeting is an open meeting subject to Chapter 551, Government Code.

Please Note that this governmental meeting is, in the opinion of counsel representing THECB, an open meeting subject to Chapter 551, Government Code and THECB is providing notice of this meeting as required by Chapter 551. In addition, **please note** that the written communication required by Texas Penal Code Sections 30.06 and 30.07, prohibiting both concealed and open carry of handguns by Government Code Chapter 411 licensees, will be posted at the entrances to this governmental meeting.

Committee on Agency Operations

AGENDA ITEM I

Welcome and Committee Chair's Opening Remarks

Mr. John Steen, Chair of the Committee on Agency Operations, will provide the Committee an overview of the items on the agenda.

Committee on Agency Operations

AGENDA ITEM II

Consideration of Approval of the Minutes from October 24, 2018, Committee meeting

RECOMMENDATION: Approval

DRAFT

**TEXAS HIGHER EDUCATION COORDINATING BOARD
Committee on Agency Operations**

Wednesday, October 24, 2018

**Board Room, 1st Floor
Room 1.170**

2:00 p.m.

1200 East Anderson Lane, Austin, Texas

The Committee on Agency Operations convened at 2:00 p.m. on October 24, 2018, with the following members present: John Steen, presiding; Javaid Anwar; Fred Farias; Michelle Tran (Ex-Officio); and Stuart Stedman (Ex-Officio).

Other Board Members present: Donna Williams

Members absent: Michael Plank; Ricky Raven

AGENDA ITEM	ACTION
I. Welcome and Committee Chair's Opening Remarks	Chair John Steen called the meeting of the Committee on Agency Operations to order.
II. Consideration of Approval of the Minutes from July 25, 2018, Committee Meeting	On a motion by Dr. Farias, seconded by Mr. Anwar, the Committee approved the July 25, 2018, Agency Operations Committee meeting minutes.
III. Public Testimony on Agenda Items Relating to the Committee on Agency Operations	No action required.
IV. Agency Operations	
A. Report on grants and contracts, including those exceeding \$1 million	No action required. Mr. Bill Franz, General Counsel was available for questions.
B. Consideration of adopting the staff's recommendation to the Committee relating to a contract with iSphere for Phase II of the WebFOCUS upgrade and security remediation project	On a motion by Dr. Farias, seconded by Mr. Anwar, the Committee approved the contract with iSphere. Ms. Zhenzhen Sun, Assistant Commissioner for Information Solutions and Services, presented this item to the Committee and was available for questions.

AGENDA ITEM	ACTION
C. Consideration of adopting the Commissioner's recommendation to the Committee relating to the certification of Texas Research Incentive Program (TRIP) funds to the Emerging Research Universities	On a motion by Dr. Farias, seconded by Mr. Anwar, the Committee approved the certification of Texas Research Incentive Program funds to the Emerging Research Universities. Dr. Julie Eklund, Assistant Commissioner for Strategic Planning and Funding, presented this item to the Committee and was available for questions.
V. Finance	
A. Consideration of adopting a resolution authorizing the issuance of State of Texas College Student Loan Bonds in one or more series to refund the 2007A and 2008A bond series; and delegation of the authority for administration and approval of the activities necessary to complete the sale of the private activity bonds	On a motion by Mr. Anwar, seconded by Dr. Farias, the Committee approved the resolution authorizing the issuance of state of Texas College Student Loan Bonds. Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO, presented this item to the Committee. Also present for questions were Mr. Richard Donoghue, McCall Parkhurst & Horton; Mr. Lee Donner, Hilltop Securities, Inc.; and Ms. Yava Scott, YaCari Consultants, LLC.
B. Consideration of adopting the staff's recommendation to the Committee to approve a two-year extension for the current student loan software contract	On a motion by Mr. Anwar, seconded by Dr. Farias, the Committee approved the two-year extension for the current student loan software contract. Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO, presented this item to the Committee and was available for questions.
C. Review of the Fiscal Year End 2018 Financial Report to the Board	Mr. Ken Martin, Assistant Commissioner for Financial Services/CFO, presented this item to the Committee and was available for questions. This item did not require any action.
VI. Internal Audit	
A. Update on Internal Audit Reports and Activities	Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions. This item did not require any action.

AGENDA ITEM	ACTION
B. Discussion of Approach for Obtaining an External Quality Assurance Review of the Internal Audit and Compliance Monitoring Functions	Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions. This item did not require any action.
VII. Compliance Monitoring	
A. Update on Compliance Monitoring Reports and Activities	Mr. Mark Poehl, Director of Internal Audit and Compliance, presented this item to the Committee and was available for questions. This item did not require any action.
VIII. Adjournment	On a motion by Dr. Farias, seconded by Mr. Anwar, the meeting adjourned at approximately 3:05 p.m.

Committee on Agency Operations

AGENDA ITEM III

Public Testimony on agenda items relating to the Committee on Agency Operations

RECOMMENDATION: No action required

Background Information:

PUBLIC TESTIMONY: The presiding chair shall designate whether public testimony will be taken at the beginning of the meeting, at the time the related item is taken up by the Board after staff has presented the item, or any other time as determined by the presiding chair.

Committee on Agency Operations

AGENDA ITEM IV-A

Report on grants and contracts, including those exceeding \$1 million

RECOMMENDATION: No action required

Background Information:

Texas Administrative Code, Title 19, Rule 1.16(j) establishes that any contract for the purchase of goods or services that exceeds \$1 million may be entered into only if the contract is approved and signed by the Commissioner, to whom the Board, by virtue of this rule, delegates such approval and signature authority. In addition to the Board receiving a quarterly report on *Contracts Executed by the Agency in Accordance with Board Rule 1.16*, the Coordinating Board staff would like to also provide the Board a quarterly report highlighting and listing all grants and contracts exceeding \$1 million.

Bill Franz, General Counsel, will be available for questions.

Committee on Agency Operations

Agenda Item IV-B

Update on the Board's Legislative Appropriations Request to the 86th Texas Legislature

RECOMMENDATION: No action required

Background

The Coordinating Board's base-level Legislative Appropriations Request (LAR) for FY2020-21 is **\$1,468,325,557 in All Funds**, which includes \$1,305,369,659 in General Revenue (GR), \$45,308,606 in General Revenue-Dedicated (GRD), \$54,863,810 in Federal Funds, and \$62,786,482 in Other Funds. Most of these funds are trustee'd to the Coordinating Board for allocation to eligible institutions, students, physicians, and other beneficiaries specified by the Texas Legislature.

The Coordinating Board is also requesting 14 exceptional items in addition to base-level funding for a total \$177,639,850. Two percent, or \$4,264,850, will support critical agency operations such as strengthening compliance monitoring, modernizing IT infrastructure, and improving data collection. The remaining 98 percent, or \$173,375,000, will be trustee'd funds to support statewide programs such as TEXAS Grants and Graduate Medical Education.

Linda Battles, Deputy Commissioner for Agency Operations and Communications/Chief Operating Officer, will provide an update on the Board's LAR and is available to answer any questions.

Committee on Agency Operations

AGENDA ITEM IV-C

Consideration of adopting the staff's recommendation to the Committee relating to the acquisition of contract services for Phase I of the Identity and Access Management (IAM) Modernization Project

RECOMMENDATION: Approval

Background Information:

As the preeminent source of higher education data in Texas and a provider of student loans, the Coordinating Board receives millions of records each quarter. A breach of the agency's data holdings would result in negative reputational and financial consequences, for the agency, the state, and the individuals whose records are exposed.

Identity and access management (IAM) is a framework for business processes that facilitates the management of electronic or digital identities. The framework includes the organizational policies for managing digital identity as well as the technologies needed to support identity management.

A robust, scalable, and ubiquitous IAM solution is key to advance agency outreach efforts and to protect the confidentiality of critical data maintained at the agency. It ensures that access privileges are granted according to one interpretation of policy and all individuals and services are properly authenticated, authorized, and audited.

During the 85th legislative session, the agency received \$215K to enhance and modernize its existing IAM framework. The IAM Modernization Project will serve to protect confidential data pertaining to higher education and extend efforts to meet state and federal requirements, including Texas Administrative Code, Section 202 and the Family Educational Rights and Privacy Act (FERPA).

Phase I of the modernization project includes the gap analysis of the current IAM solution, design, and implementation of the proposed new solution. The agency will be seeking contract services to introduce Active Directory best practices, implement a new Active Directory platform, and develop and deliver a detailed migration plan to replace the agency-developed identity management software with commercial identity management solutions to help reduce threats to confidentiality by providing additional monitoring and control of end-user accounts.

Ms. Zhenzhen Sun, Assistant Commissioner for Information Solutions and Services, will present this item to the Committee and is available to answer any questions.

Committee on Agency Operations

AGENDA ITEM IV-D

Consideration of adopting the Commissioner's recommendation to the Committee relating to the certification of gifts that are fundable through the Texas Research Incentive Program for the Emerging Research Universities

RECOMMENDATION: Approval

Background Information:

The 81st Texas Legislature created the Texas Research Incentive Program (TRIP), establishing a research matching fund for the emerging research universities.

The legislation requires the Texas Higher Education Coordinating Board (THECB) to certify that the gifts or endowments received by each emerging research university were donated for the purpose of enhancing research activities at the institution, such as endowed chairs, professorships, research facilities, research equipment, program costs, or graduate research stipends or fellowships. Once the gifts are certified, the percentage matched is statutorily mandated leaving no discretion in the amount of matching funds that the institutions receive, subject to the amount appropriated.

The amounts are being certified so the Legislature will have a basis for determining the amounts to appropriate for the 2020-21 biennium. The amount eligible for certification by institution was still being determined when the Committee on Affordability, Accountability and Planning, which has oversight of TRIP, met on December 12, 2018. Therefore, this item is coming before the Agency Operations Committee. After the Governor signs the appropriations bill for the 2020-21 biennium, the THECB will approve the distribution of the state match among institutions.

Julie Eklund, Assistant Commissioner for Strategic Planning and Funding, will make a presentation and be available for questions.

Below are certified TRIP gifts and the amount of the state match by institution. State matches are subject to the availability of funds appropriated for this purpose.

Institution	Gifts Recommended for Certification – Cycle 18-2	Gifts Waiting for State Funding That Were Previously Certified by the Board	Total Gifts Waiting for State Funding
--------------------	---	--	--

Certified Gifts

The University of Texas at Arlington	\$640,000.00	\$9,284,604.59	\$9,924,604.59
The University of Texas at Dallas	3,828,779.34	63,561,085.02	67,389,864.36
The University of Texas at El Paso	755,000.00	4,490,509.99	5,245,509.99
The University of Texas at San Antonio	2,188,559.00	12,466,223.43	14,654,782.43
University of Houston	5,795,857.59	43,339,482.87	49,135,340.46
University of North Texas	1,040,570.00	15,651,588.48	16,692,158.48
Texas Tech University	4,299,483.77	39,469,026.22	43,768,509.99
Texas State University	1,593,181.14	12,363,577.48	13,956,758.62
Total Certified Gifts	\$20,141,430.84	\$200,626,098.08	\$220,767,528.92

State Match

The University of Texas at Arlington	\$320,000.00	\$5,912,939.42	\$6,232,939.42
The University of Texas at Dallas	3,163,889.67	36,802,767.00	39,966,656.67
The University of Texas at El Paso	377,500.00	2,495,255.00	2,872,755.00
The University of Texas at San Antonio	1,094,279.50	7,530,449.22	8,624,728.72
University of Houston	4,386,503.03	36,508,050.19	40,894,553.22
University of North Texas	520,285.00	11,020,625.83	11,540,910.83
Texas Tech University	3,399,741.89	33,372,013.12	36,771,755.01
Texas State University	1,114,090.57	10,231,450.83	11,345,541.40
Totals	\$14,376,289.66	\$143,873,550.61	\$158,249,840.27

Report Data as of: 12/17/18

Committee on Agency Operations

Agenda Item IV-E

Consideration of adopting the staff's recommendation to the Committee relating to amending the Board Operating Policies and Procedures

RECOMMENDATION: Approval

Background Information:

At the direction of the Agency Operations Committee in 2014, Coordinating Board staff developed the Board Operating Policies and Procedures document, which was adopted by the Board in October of that year. This document includes the Board members' code of conduct, conflict of interest/ethics, duties/responsibilities, and protocol in communicating with the media, elected officials, institutional representatives, and students. Pursuant to Section XII, D, of the Board Operating Policies and Procedures, this document is to be reviewed by the Board in October of every even-numbered year. Staff is recommending changes to this document to better reflect how the current Board is operating in relation to protocols in communicating with staff, legislators and other stakeholders. Recommended changes to the document are noted in red under IV-A.1. (page 7).

Linda Battles and Bill Franz will be available to answer questions.

BOARD OPERATING POLICIES AND PROCEDURES

~~January 2017~~ **January 2019**

Table of Contents

I. PREAMBLE	3
A. Purpose	3
B. Goals	3
C. Scope	3
D. Responsibility for Implementation	3
E. Nondiscrimination Policy	4
II. THE BOARD	4
A. Purpose	4
B. Board Composition	4
C. Restrictions on Board Appointment, Membership and Employment	5
D. Terms	5
E. Removal of Board Member	5
F. New Board Member Orientation	6
III. OFFICERS OF THE BOARD	6
IV. BOARD MEMBER CODE OF CONDUCT/CONFLICT OF INTEREST AND ETHICAL CONDUCT	6
V. MEETINGS OF THE BOARD	10
VI. BOARD COMMITTEES	13
VII. BOARD RULES	14
VIII. CONTRACTS AND MEMORANDA OF AGREEMENT	15
IX. BOARD COMMUNICATIONS WITH THE MEDIA, ELECTED OFFICIALS, INSTITUTIONAL REPRESENTATIVES, AND STUDENTS	15
X. REQUESTS FOR DATA AND INFORMATION	16
XI. MISCELLANEOUS	16
XII. POLICIES AND PROCEDURES: GUIDELINES	17

I. PREAMBLE

A. Purpose

The Texas Higher Education Coordinating Board (the Board or Agency) adopts and implements the Board Operating Policies and Procedures to achieve the following purposes:

1. To outline the Board's general powers and duties under Chapter 61, Subchapter B, of the Texas Education Code, and other applicable laws;
2. To outline procedural rules governing the Board pursuant to Chapter 61 of the Texas Education Code, and other applicable laws;
3. To apprise Board members of the standards of conduct and conflict of interest provisions applicable to their conduct pursuant to chapter 572 of the Texas Government Code; and
4. To adopt protocols that define how Board members communicate with the media, elected officials, institutional representatives, and students.

B. Goals

In exercising its powers and fulfilling its duties, the Board shall strive to:

1. Establish major visionary guiding policies affecting the state's higher education system;
2. Establish the goals that define the results that the Board seeks to achieve;
3. Serve as a link between the Agency and state policy makers;
4. Be accountable for its decisions and actions;
5. Maintain objectivity and a statewide perspective in considering matters that may come or are before it for decision;
6. Act in the best interests of students and the people of Texas;
7. Continually learn and work to enhance the Texas higher education system within the boundaries of statutory authority; and
8. Review the Board Operating Policies and Procedures each biennium.

C. Scope

These Board Operating Policies and Procedures apply to all activities conducted by the Board.

D. Responsibility for Implementation

The Board and its officers are responsible for ensuring the implementation and adherence to the Board Operating Policies and Procedures.

E. Nondiscrimination Policy

To the extent provided by applicable law, no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination under, any program or activity sponsored or conducted by the Board, on the basis of race, color, national origin, religion, sex, age, veteran status, genetic information, or disability.

II. THE BOARD

A. Purpose

The Board represents the highest authority in the state in matters of public higher education and is charged with the duty to take an active part in promoting quality education throughout the state. The Board performs its duty by:

1. Representing the State of Texas in the coordination of all higher education in the state;
2. Setting policies that formulate the course for higher education in Texas;
3. Maintaining an objective, statewide perspective;
4. Ensuring the efficient and effective use of higher education resources and eliminating unnecessary duplication;
5. Making recommendations to improve the efficiency and effectiveness of transitions, including between high school and postsecondary education, between institutions of higher education for transfer purposes, and between postsecondary education and the workforce;
6. Administering programs and trusteed funds for financial aid and other grants as necessary to achieve the state's long-range goals and as directed by the legislature;
7. Determining educational questions according to educational measures;
8. Collecting and making accessible data on higher education in the state and analyzing that data to support policy recommendations;
9. Setting policies for institutional and program excellence by balancing access and quality;
10. Discouraging the initiation and continuation of programs of substandard quality;
11. Recognizing community and technical colleges as full partners in higher education; and
12. Being spokespersons for higher education in Texas – to encourage Texas institutions, to monitor and praise their progress, to support their steps towards excellence, and to applaud their imagination and initiative in imparting knowledge.

B. Board Composition

1. The Board is composed of 9 members and one non-voting student representative appointed by the governor to provide representation from all areas of the state with the advice and consent of the senate, and as the constitution provides.
2. A Board member may not be employed professionally for remuneration in the field of education during the member's term of office.
3. Members of the Board shall serve without pay but shall be reimbursed for their actual expenses incurred in attending meetings of the Board or in attending to other work of the Board when that other work is approved by the Board Chair.

C. Restrictions on Board Appointment, Membership and Employment

1. A Board member must be a representative of the general public. A person is not eligible for appointment as a member of the Board if the person or the person's spouse:
 - a. is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;
 - b. owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or
 - c. uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.
2. A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:
 - a. the person is an officer, employee, or paid consultant of a Texas trade association (i.e. a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest) in the field of higher education; or
 - b. the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of higher education.
3. A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

D. Terms

1. Board members hold office for staggered terms of six years with terms of one-third of the members expiring on August 31 of each odd-numbered year.
2. In the event of a vacancy during a term of a member appointed by the governor due to resignation or other reason, the Governor shall appoint a replacement who meets the qualifications of the vacated office to fill the unexpired portion of the term.

E. Removal of Board Member

1. It is a ground for removal from the Board that a member:
 - a. does not have at the time of taking office the qualifications required by Section TEC, 61.0222(a);
 - b. does not maintain during service on the board the qualifications required by TEC, Section 61.0222(a);
 - c. is ineligible for membership under TEC, Section 61.022 or 61.0222;
 - d. cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

- e. is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.
- 2. The validity of an action of the Board is not affected by the fact that it is taken when a ground for removal of a board member exists.
- 3. If the commissioner of higher education has knowledge that a potential ground for removal exists, the commissioner shall notify the Board Chair of the potential ground. The Board Chair shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the Board Chair, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

F. New Board Member Orientation

A new appointee to the Board shall be given an orientation to the activities and functions of the Board prior to being able to fully participate in a Board meeting. The New Board Member Orientation shall include the following topics:

- a. Agency mission, goals, objectives, and strategic plan;
- b. Agency organization, function, and powers and duties;
- c. Board member responsibilities, including the proper role of the member in policy making, deliberations, communications, and relations with the administrative staff of the Agency;
- d. Standards of conduct as public officials, including conflict-of-interest laws;
- e. Board meetings and other Board functions;
- f. Legislation that created the Board;
- g. Rules of the Board;
- h. Current budget of the agency;
- i. Results of the most recent formal audit of the agency;
- j. Texas open government laws, including information regarding mandatory training in open meetings and public information as required by the chapters 551 and 552 of the Texas Government Code;
- k. Travel reimbursement/per diem procedures and state regulations; and
- l. Other topics deemed appropriate by the Board Chair.

III. OFFICERS OF THE BOARD

The Governor shall designate a Board Chair and Vice Chair. The Board shall appoint a Secretary of the Board whose duties may be prescribed by law and by the Board.

IV. BOARD MEMBER CODE OF CONDUCT/CONFLICT OF INTEREST AND ETHICAL CONDUCT

- A. Code of Conduct/Conflict of Interest. Board members shall adhere to the standards of conduct and conflict of interest provisions set out in section 572.051 of the Texas Government Code and other applicable laws. Pursuant to that section, a Board member must adhere to the following:

1. Not accept or solicit any gift, favor, or service that might reasonably tend to influence the Board member in the discharge of official duties or that the Board member knows or should know is being offered with the intent to influence the Board member's official conduct.¹
2. Not accept employment or engage in a business or professional activity that the Board member might reasonably expect would require or induce the Board member to disclose confidential information acquired by reason of the official position;
3. Not accept employment or compensation that could reasonably be expected to impair the Board member's independence of judgment in the performance of the Board member's official duties;
4. Not accept an honorarium for services requested to be provided due to the Board member's official position or duties. This prohibition extends to an honorarium for in-state and out-of-state engagements if the Board member would not have been asked but for his/her official position. The honorarium may not be remitted to a third-party or tax-exempt charity if payment is made in consideration of the services performed and at the direction of the Board member. The Board member may accept food, transportation, and lodging when in connection with a conference or a similar event if within reason and, as required, reported in Section XI of her/his annual personal financial statement (Texas Penal Code, Section 36.07).
5. Not make personal investments that could reasonably be expected to create a substantial conflict between the Board member's private interest and the public interest;
6. Not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Board member's official powers or performed the official duties in favor of another;
7. Complete and file a personal financial statement with the Ethics Commission on or before April 30 each year if they served at any time beginning on January 1 and continuing through April 30 of that year (Texas Government Code § 572.026(a)). Newly appointed individuals must file a statement within 30 days of taking office.
8. Complete the open government training as required by Government Code sections 551.005 and 552.012;
9. Comply with the Open Meetings Act when communicating with other Board members outside of a posted meeting of the Board; and

1. While accepting football tickets from universities is allowed under state ethics laws so long as a representative of the donor is present, the appearance of accepting these tickets has been questioned in certain news media articles as potentially influencing Board members to vote in favor of matters that may come before the Board from such universities. To avoid any such suggestion, it is recommended that Board members request an invoice for the price of attendance from the universities whose tickets they accept.

10. Seek counsel when confronted with a situation that the Board member believes may present a conflict of interest.

B. Appropriated Funds and Official Authority. All Board members must adhere to Texas Government Code §556 in using appropriated money, but may engage in political activity to the widest extent consistent with the restrictions imposed by law.

1. The Board may not use any appropriated money under its control to finance or otherwise support the candidacy of a person for office. This prohibition extends to direct or indirect employment of a person to perform such actions.
2. The Board may not use appropriated money to employ a person who is required by Chapter 305 to register as a lobbyist.
3. Board members may not use their official authority for the purpose of affecting the result of an election, under the Code of Federal Regulations, Title 5, Part 151.121.

C. Principles of Ethical Conduct. Board members shall conduct themselves in a manner that strengthens the public's trust and confidence by adhering to the following principles:

1. Honesty, accountability, transparency, respect and trust;
2. Integrity of the highest caliber;
3. Conduct that is indisputable and beyond reproach;
4. Openness and fairness; and
5. Commitment to compliance with the law, rules and regulations, and Board Operating Policies and Procedures.

Board members:

- a) shall be honest and ethical in their conduct and the performance of their duties;
- b) shall adhere to all applicable state and federal laws and regulations, policies and regulations, and member rules and procedures;
- c) shall protect and conserve state resources and shall not use them for unauthorized activities;
- d) shall endeavor to avoid any actions that would create the appearance that they are violating the law, rules and regulations, or Board Operating Policies and Procedures;
- e) shall not hold financial interests that are in conflict with the conscientious performance of their official duties and responsibilities;
- f) shall not engage in any financial transaction in order to further any private interest using nonpublic information which they obtain in the course of their Board service;
- g) shall not make unauthorized commitments or promises of any kind purporting to bind the Board;
- h) shall not use their public offices for private gain;
- i) shall act impartially with a statewide perspective and not give preferential treatment to any private or public institution of higher education, organization or individual;

- j) shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities;
- k) shall promptly disclose fraud, waste, abuse and corruption to the Director of Audit and Compliance; and
- l) shall strictly adhere to all state and federal laws and regulations, policies and regulations, and member rules and procedures regarding sexual harassment and equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, disability, genetic information or veteran status.

D. General Duties and Responsibilities of Board Members

1. The Board is responsible for the hiring, evaluation and, if deemed necessary and appropriate, the termination of employment, of the Commissioner.
2. Duty of Loyalty - A Board member must be responsible and loyal to the interests of the state higher education system as a whole. A member does not represent any other constituency, person, or entity that conflicts with those interests.
3. Duties of the Board Chair - The Board Chair may speak for and represent the Board under a general grant of authority but may not take positions he or she knows to be contrary to Board policy.
4. Duty of Unity – Except as indicated in D.3., Duties of the Board Chair, no single member of the Board may speak for or otherwise bind the Board, unless authorized to do so by vote of a majority of the Board pursuant to an action taken in open, public session at a duly-constituted meeting of the Board.
5. Committee Authority - Board committees represent the Board and act on its behalf in preparation for Board meetings. They have authority to report and recommend various actions, including policy initiatives, to the Board.
6. It is the responsibility of each Board member to have a basic knowledge of the operations, management, finances, and effectiveness of the Agency, and each Board member has the right and authority to inform himself/herself as to the duties, responsibilities, and obligations of the member in such a manner as each may deem proper. Members of the Board are to be provided access to such information as in their individual judgments will enable them to fulfill their duties and responsibilities as members of the Board.
7. A Board member may not publicly disclose information that is confidential by law, unless disclosure is required by law or made pursuant to a vote of the Board to waive an applicable privilege.
8. Members of the Board shall bring concerns about operations, accountability, compliance, or the need for an investigation to the Commissioner, Board Chair, Vice Chair, General Counsel, Director of Audit and Compliance, or appropriate Committee of the Board.
9. Members of the Board shall respect the role of the Commissioner as the chief executive officer of the Agency and shall respect management and reporting lines for the agency.

10. Communication with Agency Staff. Members of the Board are to be provided access to agency personnel as in their individual judgments will enable them to fulfill their duties and responsibilities as Board members. The preferred regular channel of communication from Board members to agency personnel shall be made through the Commissioner and/or senior executive staff (i.e. Deputy Commissioners and General Counsel; also see IX. Board Communication with the Media, Elected Officials, Institutional Representatives, and Students). The Commissioner or senior executive staff member will alert the Board Chair and Vice Chair of any substantive communication with Board members that may directly impact the work of the Board.
11. The Board is responsible for the annual performance evaluation of the Commissioner of Higher Education. The Secretary of the Board shall develop the evaluation form and disseminate it to Board members. Each Board member shall complete the form and return it to the Secretary. The Secretary will combine and average the scores and include any comments without attributing the comments to a particular Board member. The Board shall meet in Executive Session to discuss the Commissioner's performance evaluation. The Board is also responsible for setting the Commissioner's annual compensation to an amount not to exceed the amount authorized in the General Appropriations Act.

V. MEETINGS OF THE BOARD

- A. Regular Meetings. Regular meetings of the Board shall be held in the city of Austin at least once per quarter of the calendar year on dates determined by the Board.
- B. Emergency Meetings. An Emergency Meeting of the Board may be called by the Board Chair. Notice of such meeting shall be communicated in the manner most likely to give the greatest amount of notice to the members. Every meeting notice to Board members shall contain the meeting time, place, day, and general nature of the business to be transacted.
- C. Special meetings of the Board. Special meetings of the Board may be held at times and places as ordered by the Board during a regular meeting, or special meetings may be called by the Board Chair to be held at a time and place the Chair shall designate.
- D. Notice. The Board Chair shall designate a location for each Board meeting. Notice of the meetings, including the location shall be posted pursuant to the requirements of the Texas Open Meetings Act. All meetings shall be open to the public, except executive sessions as discussed below. Notice to the public of all meetings shall be given pursuant to the Open Meetings Act.
- E. Duties of Board Members at Board Meetings:
 1. Right to Speak - A Board member has the right to state his or her views, opinions, positions, and recommendations but should do so professionally and respectfully in the procedural manner established or directed by the Board Chair, who shall allow and facilitate expression of dissenting or minority viewpoints.
 2. Duty to Listen - A Board member should listen respectfully to the views, opinions, positions, and recommendations of others, even those with whom he or she disagrees.

3. Duty to Respect Board Decisions - A Board member should abide by and not subvert or otherwise derogate to outside parties lawfully-taken Board decisions. If, as a matter of principle, a Board member must articulate a minority opinion, he or she may do so; however, such opinion should be announced to the Board through the Board Chair, who may call upon the dissenting Board member to articulate his or her opinion.
 4. Duty of Confidentiality - A Board member should not report the Board's executive session discussions, deliberations, or statements of Board members (including his or hers) to any third party without the Board's permission unless required by law to do so. Robert's Rules of Order (11th ed., 2011.)
 5. Duty of Attendance - Board members should make every attempt to attend Board meetings. However, if a Board member is unable to attend a Board meeting, he or she shall notify the Board Chair as soon as practicable. In accordance with state statute (Texas Education Code Section 61.0223(a)(5)) and Section II.E.1.e of the Board's Operating Policies and Procedures, if a Board member is absent from more than half of the regularly scheduled Board meetings during a calendar year without an excuse approved by a majority vote of the Board, the Board member is subject to removal from the Board.
 6. Duty of Disclosure - If a Board member has a real or potential private or personal interest in a measure, proposal, or decision pending before the Board, she/he should disclose this information to the remainder of the Board in open meeting and refrain from voting or otherwise participating concerning that matter (Texas Government Code §572.058). An individual who violates this duty is subject to removal from office on the petition of the Attorney General on the Attorney General's own initiative or on the relation of a resident or of any other member of the Board. For purposes of section 572.058, an individual does not have a "personal or private interest" in a measure, proposal, or decision if the individual is engaged in a profession, trade, or occupation and the individual's interest is the same as all others similarly engaged in the profession, trade, or occupation.
- F. Agendas. The Board Chair and Vice Chair shall determine the agenda for a Board meeting. Board members have a right and a duty to raise matters of concern related to Board oversight. In order that such matters can be discussed properly, it is important that a Board member with a concern mention it to the Board Chair and Vice Chair in time for the matter to be added to the agenda, if needed. The Board Chair makes the final determination as to whether to place an item on the agenda unless a majority of the Board members present request to add an item or otherwise amend the agenda. If an item is removed from the agenda, the Board Chair will timely inform other Board members of the reason for removing an agenda item after it has been posted. Board members shall receive the agenda and supporting materials for an upcoming meeting at least two weeks before the meeting, to the extent possible. Each matter to be considered at a meeting of the Board or a committee of the Board as an Agenda Item shall be accompanied by a summary of the facts pertaining thereto, the need for action thereon, and the recommendations of the Commissioner, staff, or advisory committee, where appropriate.
- G. Consent Agendas. A compilation of matters required to be approved by or reported to the Board via a Consent Agenda format shall be prepared as directed and approved by the Commissioner, Deputy Commissioners, and Assistant Commissioners, as appropriate. Any Board member may request that an item be added or removed from the Consent Calendar at the time it is being considered. Addition of an item from the Agenda to the Consent Agenda

requires approval of a majority of Board members present. Removal of an item can be accomplished at the request of a single Board member.

- H. Quorum/Action. At each regular or emergency meeting, the Board Chair shall certify a quorum is present in order to conduct official business of the Board. A quorum of the Board is a majority of the number of members fixed by statute, not including the Board's student representative. Accordingly, five members is a quorum of the Board for all purposes. The Texas Open Meetings Act prohibits less than a quorum of members from discussing or deliberating official business of the Board at such a meeting. A majority of members present, whether or not they comprise a quorum, may adjourn the meeting from time to time. A majority shall mean, for all purposes, more than half of the votes cast, ignoring abstentions.
- I. Rules Governing Board Action. The Board Operating Policies and Procedures shall govern the action of the Board. In the event that the policies and procedures do not specify how an action shall be conducted, the Board, as appropriate, shall refer to pertinent statutes, rules, or the latest Robert's Rules of Order Newly Revised Edition.
- J. Recordation of Meetings. All or any part of the public meeting may be recorded by any person in attendance by means of tape recorder, video camera, or any other means of sonic or visual reproduction unless determined by the Board Chair to be disruptive of the meeting.
- K. Public Testimony. Opportunity for public testimony shall be provided at each regularly scheduled meeting of the Board and its standing committees.
 - 1. The Board or Committee Chair shall take appropriate action to avoid unnecessary, repetitive testimony and to assure that different members of the public with differing points of view have reasonable access to the Board or committee. The Board or Committee Chair shall strive to ensure that representatives from both sides of an issue are able to address the Board or committee.
 - 2. Oral and written testimony shall be limited to an existing agenda, including consent, item that is being considered by the Board.
 - 3. Individuals wishing to testify must register via mail, email, fax or online using the public comment form available on the agency's website at least 24 hours prior to the meeting. Exceptions may be made at the discretion of the Board or Committee Chair.
 - 4. Individuals must provide his or her name, organizational affiliation, if any, and indicate which agenda item shall be addressed. A separate form must be submitted for each agenda item on which the speaker will testify. Additionally, the registrant shall disclose his or her viewpoint on the agenda item. The date and time the registration was received shall be noted.
 - 5. Each speaker shall have three minutes, unless otherwise stated in advance by the Board or Committee Chair. Testimony is limited to one representative per organization.
 - 6. Special accommodations for individuals who may require auxiliary aids or other services shall be made by the Agency's ADA Coordinator. Individuals requiring these accommodations shall notify the ADA Coordinator at least five days prior to the meeting.

7. A registrant offering written materials in lieu of oral testimony shall provide at least 10 copies of the materials to Agency staff for distribution to Board members.
- L. Executive Sessions. Executive Sessions of the Board are closed meetings of the Board which may be held as authorized by the Open Meetings Act.

VI. BOARD COMMITTEES

- A. The Board Chair may establish regular, standing, or temporary committees of the Board as he/she deems appropriate.
- B. To the extent practicable, all subjects and matters requiring Board action shall be referred to the appropriate standing committee for consideration and recommendation before action is taken by the Board. If the matter could be considered by more than one committee, the Board Chair will determine the appropriate referral.
- C. The Board Chair shall appoint an appropriate number of members to serve on the standing committees, including one to serve as Committee Chair. The Board Chair has established the following standing committees:
 1. Agency Operations Committee (AOC). This committee is responsible for matters pertaining to agency operations. Responsibilities include:
 - a. Agency strategic plan;
 - b. Agency's legislative appropriations request;
 - c. Audit, Compliance, and IT functions;
 - d. Student loan portfolio;
 - e. Agency's continuous improvement initiatives; and
 - f. Any other issues, rules, reports, and studies relating to agency operations.
 2. Committee on Academic and Workforce Success (CAWS). This committee is responsible for all matters pertaining to academic excellence, research, health, and workforce development. Responsibilities include:
 - a. Academic and technical programs;
 - b. Data, information and reports relating to low producing degree programs;
 - c. Certificates of approval/accreditation;
 - d. Workforce Development (Perkins/Vocational Education);
 - e. Research programs;
 - f. GME and other health programs;
 - g. College Readiness and Success (TSI, Developmental Education, ABE, Educator Quality);
 - h. P-16 Outreach Initiatives;
 - i. Learning Technology;
 - j. Transfer Issues and Initiatives; and
 - k. Any other issues, rules, reports, and studies relating to academic excellence, research, health and workforce development.
 3. Committee on Affordability, Accountability and Planning (CAAP). This committee is responsible for policy development, strategic planning for statewide higher education, and monitoring of the state's progress in achieving the goals of the strategic plan. Responsibilities include:

- a. Long-term Strategic Plan for Texas Higher Education;
- b. Legislative Agenda;
- c. Formula Funding;
- d. Data, information and reports relating to Campus Facilities;
- e. Accountability System;
- f. Financial Aid;
- g. Higher Education Strategic Plan Progress Reports;
- h. Institutional Cost Efficiencies; and
- i. Any other issues, rules, reports, and studies relating to affordability, accountability, and planning.

The performance appraisals of the Commissioner, General Counsel and Director of Audit and Compliance, as well as all rules developed through the negotiated rulemaking process, shall be considered by the full Board, not a Board standing committee.

D. Advisory Committees

- 1. The Board may establish advisory committees and shall appoint advisory committee members; however, a Board member may not serve as a member of an advisory committee.
- 2. The Board shall adopt rules to establish advisory committees in accordance with 19 Texas Administrative Code, Part 1, Chapter 1, Subchapter A, Section 1.6.

VII. BOARD RULES

- A. Rule Making Authority. The rules adopted by the Board are part of a larger body of state agency rules that are collected and published by the Office of the Secretary of State as the Texas Administrative Code (TAC). Board rules are codified under Title 19, Part I, of the TAC. Title 19 is Education, and Part I is the Texas Higher Education Coordinating Board. The Board may adopt new rules or abolish or amend existing rules.
- B. Rule Making Process. The rulemaking process is primarily governed by Chapter 2001 of the Texas Government Code and is designed to permit and encourage stakeholder participation in rule making. The Agency also utilizes Chapter 2008 of that Code when it engages in negotiated rulemaking. The process shall follow Board rules, Chapter 1, Subchapter A, Rule 1.14. Rules that have been developed through negotiated rulemaking process are not considered by a Board committee before being considered by the full Board.
- C. Rule Review Process. In accordance with Texas Government Code, §2001.039, the Board shall review its rules every four years to ensure that statutory authority and the reasons for the rules continue to exist.
- D. Filing Non-Substantive Rule Corrections with the Secretary of State. The Commissioner of Higher Education or the Commissioner's designee may approve and file with the Secretary of State non-substantive corrections to the Board's rules. Non-substantive rule corrections may

include typographical, grammatical, referencing, or spelling errors and technical edits to comply with Texas Register style and format requirements.

VIII. CONTRACTS AND MEMORANDA OF AGREEMENT

A. Contracts.

1. The Board shall execute interagency contracts to perform routine administrative functions and may execute other contracts as allowed by law.
2. The Board shall not contract for goods or services with a relative of a Board member unless the contract results from a competitive process in compliance with state purchasing laws. "Relative" for the purpose of this subsection shall be based on the civil law standard for determining degrees of relationship and shall mean any persons related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood). A Board member shall identify to the General Counsel any relative that may be considering a contractual relationship with the Board.

- B. Delegation. The Board Chair, Vice Chair, and Chair of the relevant Board standing committee may approve contracts on behalf of the Board in accordance with Board rule, Chapter 1, Subchapter A, Section 1.16.

IX. BOARD COMMUNICATIONS WITH THE MEDIA, ELECTED OFFICIALS, INSTITUTIONAL REPRESENTATIVES, AND STUDENTS

A. Communications with the Media

1. Reports on actions of the Board on matters of public interest will be given to the press as promptly as possible by the External Relations Department.
2. Statements on matters of an obviously controversial nature shall be made by the Board Chair or the Commissioner.
3. No Board member shall make or issue any public statement on an obviously controversial subject which might reasonably be construed as a statement of the official position of the Board without the advance approval of the Board Chair.
4. It is not the intent of this policy statement to stifle the right of freedom of speech of anyone speaking in a personal capacity where that person makes it clear that he or she is not speaking for the Board or the members of the Board. To the extent possible, Board members are expected to coordinate with the External Relations Department regarding any media contacts and press statements.

- B. Communications with Elected Officials. When a Board member would like to schedule a meeting with an elected official regarding matters relating to the Board, , it is preferred the Board member request that the External Relations Department schedule the meeting, provide

all necessary information/talking points, and accompany the Board member as needed/requested.

- C. Communications with Institutional Representatives. When a Board member is contacted by an administrator, faculty member, or governmental relations staff member from an institution of higher education regarding a controversial issue relating to the Board, the Board member shall notify the the Board Chair and Vice Chair.
- D. Student Complaints. When a Board member is contacted by a student with a complaint or request for information, it is preferred that the Board member refer the individual to the General Counsel's Office for further assistance. The General Counsel's Office shall notify the Board member how the complaint or request for information was handled by Agency staff.
- E. Speaking Invitations. When a Board member accepts an invitation to speak at a public event on behalf of the Board, it is preferred that the Board member contact the External Relations Department to request necessary information/talking points. The External Relations Department shall also notify the Board Chair and Vice Chair of the speaking invitation.

X. REQUESTS FOR DATA AND INFORMATION

- 1. Information requests from or on behalf of an individual member of the Board seeking the compilation of significant quantities of information or data maintained by the agency will be reviewed by the Board Chair, the Commissioner, and General Counsel and, if necessary, discussed with the requesting Board member to determine the appropriate scope of the request and timing of the response to avoid inefficiencies and duplication of effort but shall also ensure that requests are fulfilled in a timely manner consistent with applicable law and policy.
- 2. Smaller requests for existing information or data that do not appear to require significant time or effort may be processed promptly by Agency staff.
- 3. Within 5 business days of the receipt of a Board member's information request, the requesting Board member will be provided with an estimated date for delivery or production. The Board requires Agency staff to respond thoroughly and appropriately to requests for information from a member of the Board without undue delay. In the rare circumstance when there are concerns about a Board member's request, the matter will be discussed with the Board member within 5 business days of receipt of the request. If concerns are unresolved following discussion with the Board member, the matter will be presented to the Board as quickly as possible, including by call of a special meeting if necessary. Upon vote, if any two or more Board members support the request, the request will be filled without delay.
- 4. This process is not intended nor will it be implemented to prevent a member of the Board from access to information or data that the Board member deems necessary to fulfill his or her official duties and responsibilities.

XI. MISCELLANEOUS

- A. Fiscal Year. The fiscal year of the Board is the same as the official fiscal year of the State of Texas. It shall begin on September 1 and end on August 31 of each year.
- B. Minutes. Minutes of the Board and Board committee meetings shall be prepared and maintained, as required in the Open Meetings Act.
 - 1. Minutes of the Board meetings shall be approved by the Board and signed by the Secretary of the Board. Minutes of the Board committee meetings shall be approved by the appropriate Board committee.
 - 2. Before the Board or Board committee approves the minutes of the last meeting, the minutes shall be sent to each member of the Board (or each member of the Board committee) for review, comment, and correction prior to approval.
 - 3. Minutes are available for public review as authorized by the Open Meetings Act. All books and records of the Board shall be stored according to the records retention schedules as set forth by the State Library and Archives Commission.
 - 4. The Board or a Board standing committee must make either a certified agenda or recording of each closed session, except for an executive session held by the Board or Board committee to consult with its attorney in accordance with section 551.071 of the Government Code (the Attorney/Client privilege section). If a certified agenda is kept, the presiding officer (i.e., the Board Chair, Committee Chair, or other member presiding during the closed session) must certify that the agenda is a true and correct record of the executive session. A certified agenda must include “(1) a statement of the subject matter of each deliberation, (2) a record of any further action taken, and (3) an announcement by the presiding officer at the beginning and the end of the closed meeting indicating the date and time.” While such agenda does not have to be a verbatim transcript of the meeting, it must at least provide a brief summary of each deliberation.

Any Board member participating in a closed session knowing that a certified agenda or recording is not being made commits a Class C misdemeanor. The certified agenda or recording of an executive session shall be destroyed after two years (absent litigation or threat thereof), in accordance with state law. A certified agenda or recording of an executive session is confidential. A person who knowingly and without lawful authority makes these records public commits a Class B misdemeanor and may be held liable for actual damages, court costs, reasonable attorney fees, and punitive damages. Section 551.104 provides for court-ordered access to the certified agenda or recording under specific circumstances.

A Board member has a right to inspect the certified agenda or tape recording of a closed meeting, even if he or she did not participate in the meeting. This is not a release to the public in violation of the confidentiality provisions of the Act, because a Board member is not a member of the public within that prohibition. A Board member may not copy the recording or certified agenda of a closed meeting, nor may a former member inspect these records once he or she leaves office.

XII. POLICIES AND PROCEDURES: GUIDELINES

- A. Effective Date of Policies and Procedures. These policies and procedures and any amendments to them shall become effective upon approval of the Board.
- B. Amendments to Policies and Procedures. Any of these policies and procedures may be altered, amended, or repealed, and new policies and procedures may be adopted by an affirmative vote of a majority of the Board, unless to do so would be contrary to law.
- C. The Board Operating Policies and Procedures create no substantive or procedural rights. They are guidelines for the Board's internal governance only.
- D. The Board Operating Policies and Procedures shall be reviewed by the Board in October of even numbered years unless (1) an earlier modification is required by law or (2) a proposal is made by a Board member to modify such policies and procedures at an earlier date.

Committee on Agency Operations

AGENDA ITEM V-A

Review of the Fiscal Year 2019 Financial Report to the Board

RECOMMENDATION: No action required

Background Information:

During each quarterly Committee meeting, the Finance Department provides a financial report summarizing the agency's fiscal-year-to-date budgetary and financial activities. This is a financial management report that is developed for both agency and Board use. Staff may revise this report periodically to present the most relevant information.

Key points:

- This report reflects data for the first quarter of FY19.
 - September 1, 2018 through November 30, 2018.
- The report is distributed to agency executive management on a monthly basis.
- Report overview:
 - College Access Loan program demand is higher than previous year due to a lower interest rate of 5.3% vs. 6.6%.
 - Completed refunding bond sale for the 2007A and 2008A bond series on 11/29/18. \$31.5M of net cash savings (\$40.5M overall) at a \$17.3 net present value. Savings were produced from three sources. The true interest cost was lower (2.85% vs. 5.1% coupon). The bond terms were reduced from an average life of 7.7 years to 4.6 years due to an IRS rule. The principal borrowed was reduced by \$9.5M through a program cash contribution.
 - Budget adjustments are primarily related to carrying forward of unexpended balances (UB) from FY18 into FY19.
 - No notable items in the trustee or administrative sections.

Ken Martin, Assistant Commissioner for Financial Services/CFO, will present this item to the Committee and is available to answer any questions.

Committee on Agency Operations

AGENDA ITEM VI-A

Update on Internal Audit Reports and Activities

RECOMMENDATION: No action required

BACKGROUND INFORMATION:

The Internal Audit Department completed four projects since the last Agency Operations Committee meeting in October 2018. The reports include:

1. *Final Report -- A Self-Assessment of Work Quality at the Coordinating Board*; this was a Category 1 Report with no recommendations.
2. *Final Report -- Performance Measures and Survey Instruments for Fiscal Year 2018*; this report is a compilation of Quality Assurance and Improvement Program results for Fiscal Year 2018.
3. *Final Report -- A Follow up Review of An Internal Audit of College Access Loan Administration*; this was a follow-up report with two outstanding recommendations.
4. *Final Report -- A Follow up Review of An Internal Audit of Data Administration and Governance*; this was a follow-up report with one outstanding recommendation.

Update on Internal Audit activities

Audits In Progress	Stage of Project
Review of Contract Administration	Planning
A Follow Up Audit of Contract Administration	Planning
Review of Formula Funding--Community College	Planning
A Follow Up Audit of Texas Educational Opportunity Grant (TEOG)	Planning

Other Internal Audit Activities

- Coordinated external audits – State Auditor’s Office, KPMG, etc.
- Provided input on record retention
- Provided input on accessibility

The final reports are attached. Mark Poehl, Director, Internal Audit and Compliance, will present this item and be available to answer any questions.



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

October 25, 2018

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE

Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Ricky A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

512/ 427-6101
Fax 512/ 427-6127

Web site:
<http://www.thecb.state.tx.us>

Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

We performed an assessment of internal audit work quality to satisfy the requirements of professional auditing standards. It is our opinion that the Internal Audit Office *generally conforms* to the Institute of Internal Auditors (IIA) *International Standards for the Professional Practice of Internal Auditing*. These standards require:

- 1300 – Quality Assurance/Improvement Program
1311—Internal Assessments
 - Periodic reviews performed through self-assessment or by other persons within the organization with sufficient knowledge of internal audit practices.

Our self-assessment of internal audit work quality was based on an evaluation of the audit project *An Internal Audit of Contract Administration at the Texas Higher Education Coordinating Board, Report No. THECB IA-WP-17-195*, issued in December 2017. We conducted our review using the self-assessment tool outlined by the *State Agency Internal Audit Forum* in their Peer Review Process Manual.

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

PERFORMED BY:

Aporajita Ahmed, CPA, CFE, CITP, CGMA, CICA, Cyber Security Professional,
Internal Audit Lead

CC:

THECB

Board Members

Commissioner's Office

Ms. Linda Battles, Deputy Commissioner for Agency Operations and
Communication and COO

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Mr. William Franz, General Counsel

STATUTORY DISTRIBUTION REQUIREMENT

Legislative Budget Board

Ms. Julie Ivie

Governor's Office of Budget & Planning

Mr. Drew DeBerry

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Mr. Ken Levine

TEXAS HIGHER EDUCATION COORDINATING BOARD

Internal Audit and Compliance



Fiscal Year 2018 Quality Assurance and Improvement Program

Table of Contents

Requirements for Improvement	2
Internal Assessments	3
Internal Audit Performance Measures—for Fiscal Year 2017 and 2018.....	3
Internal Audit Internal Review	4
Compliance Monitoring Performance Measures for Fiscal Year 2018.....	5
External Assessment	6

Requirements for Improvement

International Standards for the Professional Practice of Internal Auditing

Standard 1300-Quality Assurance and Improvement Program (QAIP): The Chief Audit Executive must develop and maintain a quality assurance and improvement program that covers all aspects of the internal audit activity. To implement this standard, the chief audit executive must consider the requirements related to its five essential components:

- Internal assessments (Standard 1311)
- External assessments (Standard 1312)
- Reporting on the QAIP (Standard 1320)
- Use of "Conforms with the International Standards for the Professional Practice of Internal Auditing" (Standard 1321)
- Disclosure of nonconformance (Standard 1322)

Generally Accepted Government Auditing Standards (GAGAS)

Chapter 5-Section 5.03 and 5.84, each audit organization performing audits in accordance with GAGAS must:

- a. Establish and maintain a system of quality control that is designed to provide the audit organization with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements, and
- b. Have an external peer review performed by reviewers independent of the audit organization being reviewed at least once every 3 years.

Professional Requirements and Auditor Independence

The Internal Audit and Compliance Department conducts audits in conformance with GAGAS promulgated by the Comptroller General of the United States and the Institute of Internal Auditors (IIA's) International Standards for the Professional Practice of Internal Auditing and Code of Ethics. These standards require that we be independent from any entity or person that we audit or may audit and be objective when conducting such audits. Furthermore, IIA Standards require that the Chief Audit Executive confirm to the Board, at least annually, the organizational independence of the internal audit activity. THECB Internal Audit and Compliance is organizationally independent of management and as such, remains objective when conducting audits.

Internal Assessments

Internal Audit Performance Measures—for Fiscal Year 2017 and 2018

Performance Measure/Goal	Results	
	Fiscal Year End August 31, 2017	Fiscal Year End August 31, 2018
<p>1. Was the approved annual audit plan achieved?</p> <p><i>Substantial achievement is the goal, with a target of 90% of project workload completed by year end.</i></p>	<p>Full Achievement 100%</p>	<p>Partial Achievement 90% fieldwork was not completed for 1 out of 3 risk based audit by the end of Fiscal Year 2018.</p>
<p>2. Were final audit reports sent timely to oversight bodies?</p> <p><i>Substantial achievement is the goal, with a target of 100% of final reports sent to oversight bodies within 30 days of final report issuance.</i></p>	<p>Full Achievement 100%</p>	<p>Full Achievement 100%</p>
<p>3. Was the Internal Audit Annual Report submitted timely?</p> <p><i>This report has a November 1 statutory deadline.</i></p>	<p>Full Achievement 100%</p> <p>Report sent 10/27/2017.</p>	<p>Full Achievement 100%</p> <p>Report sent 10/29/2018.</p>
<p>4. Was the Internal Audit Annual Plan prepared in a timely manner?</p> <p><i>Advance preparation activity must be staged throughout the year to ensure that the final Annual Plan is ready for board approval at the July meeting.</i></p>	<p>Full Achievement 100%</p> <p>Annual Plan was presented and approved in July, 2017.</p>	<p>Full Achievement 100%</p> <p>Annual Plan was presented and approved in July, 2018.</p>
<p>5. Was the Internal Audit function in general conformity with professional standards, as measured by the External Quality Assurance Review?</p> <p><i>General conformance with the Institute of Internal Auditors Professional Standards is the highest rating, followed by Partial Conformance and Non-Conformance.</i></p>	<p>Full Achievement 100%</p> <p>General conformance was expressed in the most recent External Quality Assurance Review conducted in FY 16.</p>	<p>Full Achievement 100%</p> <p>General conformance was expressed in the most recent External Quality Assurance Review conducted in FY 16.</p>
<p>6. Was the Internal Audit function in general conformity with professional standards, as measured by an annual internal self-assessment?</p> <p><i>General conformance with the Institute of Internal Auditors Professional Standards is the highest rating, followed by Partial Conformance and Non-Conformance.</i></p>	<p>Full Achievement 100%</p> <p>General conformance was expressed in the most recent internal self-assessment conducted in FY 17.</p>	<p>Full Achievement 100%</p> <p>General conformance was expressed in the most recent internal self-assessment conducted in FY 18.</p>

Performance Measure/Goal	Results	
	Fiscal Year End August 31, 2017	Fiscal Year End August 31, 2018
<p>7. Was internal audit time used efficiently and effectively?</p> <p><i>Internal Audit holds itself to responsible standards for the effective and efficient use of auditor time. A benchmark standard of 75% of each auditor's time being charged to an audit, or being related to conducting audits, is the goal.</i></p>	<p>Full Achievement 100%</p> <p>88% of available auditor time was directly used for audits or audit-related activity.</p>	<p>Full Achievement 100%</p> <p>86% of available auditor time was directly used for audits or audit-related activity.</p>

Internal Audit Internal Review

Internal Audit performed an assessment of internal audit work quality to satisfy the requirements of professional auditing standards. The self-assessment of internal audit work quality was based on an evaluation of the audit project *An Internal Audit of Contract Administration at the Texas Higher Education Coordinating Board, Report No. THECB IA-WP-17-195*, issued in December 2017. The review was conducted using the self-assessment tool outlined by the *State Agency Internal Audit Forum* in their Peer Review Process Manual.

Internal Audit also updated the Internal Audit and Compliance Monitoring webpage to comply with accessibility.

Compliance Monitoring Performance Measures for Fiscal Year 2018

Performance Measure/Goal	Results
	Fiscal Year End August 31, 2018
<p>8. Was the approved annual audit plan achieved?</p> <p><i>Substantial achievement is the goal, with a target of 90% of project workload completed by year end.</i></p>	<p>Partial Achievement 80%</p> <p>The reduction of staff, postponement of audits due to Hurricane Harvey, and number of special projects had a significant impact on plan accomplishment.</p>
<p>9. Were final audit reports sent timely to oversight bodies?</p> <p><i>Substantial achievement is the goal, with a target of 100% of final reports sent to oversight bodies within 30 days of final report issuance.</i></p>	<p>Full Achievement 100%</p>
<p>10. Was the Compliance Monitoring Annual Plan prepared in a timely manner?</p> <p><i>Advance preparation activity must be staged throughout the year to ensure that the final Annual Plan is ready for board approval at the July meeting.</i></p>	<p>Full Achievement 100%</p> <p>Annual Plan was presented and approved in July, 2018.</p>
<p>11. Was the Compliance Monitoring function in general conformity with professional standards, as measured by the External Quality Assurance Review?</p> <p><i>Pass with Generally Accepted Government Auditing Standards is the highest rating, followed by Pass with Deficiencies and Fail.</i></p>	<p>Full Achievement 100%</p> <p>Pass was expressed in the most recent External Quality Assurance Review conducted in FY 16.</p>
<p>12. Was Compliance monitoring audit time used efficiently and effectively?</p> <p><i>Compliance Monitoring holds itself to responsible standards for the effective and efficient use of auditor time. A benchmark standard of 75% of each auditor's time being charged to an audit, or being related to conducting audits, is the goal.</i></p>	<p>Full Achievement 100%</p> <p>77% of available auditor time was directly used for audits or audit-related activity.</p>
<p>13. How many third party inquiries were resolved through Compliance Monitoring assistance?</p> <p><i>Substantial achievement is the goal, with a target of 100% of responses to third party requests.</i></p>	<p>Full Achievement 100%</p> <p>Compliance Monitoring responded to 14 inquiries during fiscal year 2018.</p>

External Assessment

G Shemo Consulting Inc.
George J. Shemo, CPA, CGMA
13 Pearce Lane
Ballston Lake, New York 12019

Office: 518-399-3235
Cell: 518-894-7477
Email: gjsmol@nycap.rr.com

Certified: NYS
Member: AICPA
.NYSSCPA
IIA



REPORT ON THE EXTERNAL QUALITY ASSESSMENT OF

**TEXAS HIGHER EDUCATION
COORDINATING BOARD**

INTERNAL AUDIT and COMPLIANCE DEPARTMENT

September 28, 2016



Overall Opinions on Conformance

September 20, 2016

Under a contractual agreement with the Texas Higher Education Coordinating Board (THECB), G Shemo Consulting Inc. (GSC) has conducted an independent External Quality Assessment (EQA) of the THECB Internal Audit activity (IA activity) in the Internal Audit and Compliance Department (IACD).

The review was conducted during the period of September 12, 2016 to September 20, 2016 at the offices of THECB in Austin, Texas. This EQA was conducted as required by the Institute of Internal Auditors' (IIA) *Standard 1312*, in accordance with the approach and procedures contained in the IIA "Quality Assessment Manual" (Issued August 1, 2013). Further, this EQA included a Peer Review of IA activity conformance with applicable GAO Standards, and was conducted according to the requirements contained in GAO Standards 3.96 to 3.107. Finally, this EQA included an assessment of IA activity compliance with the requirements of the Texas Internal Auditing Act.

GSC attests that it is fully qualified to conduct this EQA of the IA activity, and that GSC is independent in all respects to THECB and the IACD. Based on the results of this EQA, GSC has reached the following conclusions:

In regard to the IIA Standards:

It is our overall opinion that, as of September 15, 2016, the THECB IA activity "Generally Conforms" to the IIA *Standards*, the Code of Ethics, and Definition of Internal Auditing. "Generally Conforms" is the top rating provided within IIA QA guidance, with the others being "Partially Conforms" and "Does Not Conform". For a detailed list of conformance to individual IIA *Standards*, please see Attachment A. The QA team has identified opportunities for further enhancing the IA activity, details of which are provided in this report.

In regard to the GAO Standards:

It is our overall opinion that the THECB IA activity's QAIP was suitably designed and complied with, for the year ended August 31, 2016, in order to provide reasonable assurance of performing and reporting in conformity with applicable GAO standards in all material respects. Accordingly, in our opinion, the appropriate Peer Review Rating for the IA activity is "Pass". This rating is the highest of the three ratings provided within GAO Standards, with the other ratings being "Pass With Deficiencies", and "Fail". For a detailed list of conformance to individual GAO *Standards*, please see Attachment B.

In regard to the Texas Internal Auditing Act:

It is our overall opinion that, as of September 15, 2016, the IA activity conforms to all the requirements contained within the Texas Internal Auditing Act.

A handwritten signature in black ink, appearing to read "George J. Shemo".

George J Shemo, CPA, CGMA
President, G Shemo Consulting Inc.



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

October 1, 2018

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE

Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Ricky A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.thecb.state.tx.us>

Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

The Texas Higher Education Coordinating Board has implemented five of seven recommendations and partially implemented two recommendations, from our prior report, *An Internal Audit of College Access Loan Administration (CAL)*, Report No. THECB-IA-WP-15-174, issued October 19, 2015.

Management implemented five of seven outstanding audit recommendations by:

- Training loan staff on risk identification and risk management practices and reviewing reporting mechanisms to ensure that exception reporting results in the appropriate level of management oversight and involvement in non-routine events (Prior Observation 2);
- Evaluating and clarifying the records retention language in the Financial Aid Memorandum of Understanding, in light of institutional loan-related records (Prior Observation 3);
- Establishing, publishing, and making available to students and institutions, forms and applications that contain information related to CAL as THECB-administered loans to promote full understanding and identification of the loan by the borrower, co-signer, and other parties (Prior Observation 5);
- Establishing comprehensive written procedures addressing all aspects of CAL program administration including documentation of decision factors in granting forbearance and quality control review of work (Prior Observation 6); and
- Revamping procedures to administer access to HELMSNET¹ to ensure that only authorized institutional personnel can access loan-related information (Prior Observation 7).

¹ HELMSNET is a web based portal to access THECB loan information for students and institutions.

Management partially implemented two of seven outstanding audit recommendations:

1. (Prior Observation 1)

- a) The first part of Prior Observation 1, to develop a positive assurance control, such as Financial Aid Database (FAD) to HELMS reconciliation, to timely alert the Coordinating Board when an institution improperly retains loan funds intended for student borrowers, has been partially implemented.

The current FAD to HELMS reconciliation relies on the institutions that receive CAL funds to perform a student-by-student reconciliation based on information provided to the institution by THECB. A review of three institution's reconciliations identified one instance where the year associated with a loan was incorrect and could not be corrected, and three instances where differences between the certified FAD amount and the amount indicated as disbursed in HELMS were not the same.

Although management has made significant improvements in establishing and improving the FAD to HELMS reconciliation process, several shortcomings reduce the effectiveness of the reconciliation. First, HELMS does not provide an editable "FAD year" field that would allow institutions to provide and correct the FAD year that is associated with a particular loan, so if a loan is initiated with the wrong year, it cannot be corrected. Second, the loans that have been certified and reconciled through the FAD to HELMS reconciliation cannot be locked down to prevent additional changes to disbursements after certification. Therefore, the effectiveness of the reconciliation control process is negatively impacted by a) the inability to identify loans within HELMS included in the FAD-HELMS reconciliation process, b) the inability to revise the FAD year prior to reconciliation and c) the inability to prevent changes to loans in HELMS after reconciliation.

An interim option that would provide enhanced control over institutional cancellation payments, may be to consolidate payment processing in the Student Financial Aid department so that cancellations may be more accurately applied to student loan accounts and controlled.

- b) The second part of Prior Observation 1, to enhance HELMSNET, or its successor, to provide complete information that better allows institutions to reconcile and research loan activity, has been partially implemented.

Management has implemented procedures to provide institutions student-by-student loan information from HELMSNET on at least a semi-annual basis for reconciliation purposes. However, institutions do not have the capability

to obtain information directly from HELMSNET to reconcile and research loan activity.

- **Management's Current Response for Prior Observation 1 as of September 2018:**

Management agrees. The manual processes implemented for reconciling FAD to HELMS has identified many past discrepancies and has allowed the THECB and institutions to correct these. Manual processes inherently include a higher degree of risk than automated situations, while automated situations include a higher degree of cost (both fiscal and resources) than manual processes to implement. Additionally, WebFocus reports for institutions were removed due to high security risks, though Financial Aid Services continues to provide these reports through a secure mechanism upon request. Integrating fields into HelmNet3, the CommonLine certification process, institutional financial aid management systems, and HELMS to allow for automated reconciliation would potentially require substantial resources from 5280 (the HELMS vendor), software vendors, institutions, and the agency. The cost of this has the potential to significantly outweigh the benefits for this purpose and level of risk.

Management will continue to review the situation with ISS and other stakeholders to identify potential approaches that may be available to perform a complete reconciliation at minimal cost.

- **Name and Title of Responsible Party for Prior Observation 1**

DeCha Reid, Director, Financial Aid Services, SFAP

- **Expected Completion Date for Prior Observation 1**

ISS has determined that the reporting tools for institutions will need to be recreated in the HELMS/HelmNet3 environment. Business specifications are currently being developed for these reports. Creation of the reports will be dependent on ISS and 5280 resources, and the approval of ITSC.

- **Current Status of Implementation for Prior Observation 1**

Partially Implemented

2. (Prior Observation 4)

- a) Management is in the process of implementing the following part of Prior Observation 4. However, implementation of this part of Prior Observation 4 has been delayed due to external factors beyond the control of THECB.
- Align program guidance language with the language in Education Code chapter 52 and TAC Title 19 (regarding accounting for family financial resources in determining the maximum CAL loan amount) (Prior Observation 4A).

Management pursued a statutory change to implement the observation during the 85th legislative session via SB 2048. Although the statutory revision made it through the committees, it did not receive a vote on the floor for final passage. Management is planning to propose the same legislation in the upcoming session.

An alternative solution was explored to change the HELMS loan application format to add an additional field for family financial resources, but changes on the institution side would have also been required, making the alternative solution not feasible.

- b) Management has implemented part 4B of Prior Observation 4 by:

- Establishing statute, rules, and program guidance governing the prompt disbursement of CAL funds to the student or return of undistributed funds to the Coordinating Board (Prior Observation 4B).

- **Management's Current Response for Prior Observation 4 as of September 2018:**

Management agrees. The agency will re-submit a request for a statutory amendment during the 86th legislative session. If approved, this will clarify this portion of the statute based on the initial audit observation.

- **Name and Title of Responsible Party for Prior Observation 4**

Ken Martin, Assistant Commissioner Financial Services/CFO

- **Expected Completion Date for Observation 4**

May 2019

- **Current Status of the Implementation for Prior Observation 4**

In progress, external factors delaying implementation

We conducted this follow-up audit in conformance with the International Standards for the Professional Practice of Internal Auditing and in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl". The signature is written in a cursive style with a large, stylized 'M' and 'P'.

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

PERFORMED BY:

Mr. Paul Maeyaert, JD, MBA, CIA, CGAP; Auditor

CC:

THECB

Board Members

Commissioner's Office

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communications

Mr. William Franz, General Counsel

Mr. Ken Martin, Assistant Commissioner for Financial Services

Student Financial Aid Programs

Mr. Charles Puls, Deputy Assistant Commissioner, Student Financial Aid Programs

Ms. DeCha Reid, Director of Financial Aid Programs

STATUTORY DISTRIBUTION REQUIREMENT

Legislative Budget Board

Ms. Julie Ivie

Governor's Office of Budget and Planning

Mr. John Colyandro

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

December 10, 2018

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE

Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Ricky A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.theccb.state.tx.us>

Dr. Raymund A. Paredes
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Paredes:

The Texas Higher Education Coordinating Board implemented two of the three outstanding audit recommendations from the Audit of Data Administration and Governance report issued May 25, 2017.

Management implemented audit recommendations by:

- Creating a quarterly process to scan a network folder with agency-wide access for improperly stored sensitive information, and working with program staff to remediate any files identified during the scan.
- Updating Security Awareness Training to provide detailed information of the types of information and files that should not be stored on the network folder with agency-wide access.
- Implementing a process to educate program staff on agency-wide risk assessment activities, which include identifying data owners, and documenting information system applications.

Management reported the following four-part recommendation, originally scheduled for implementation in November/December 2017, as currently in progress:

1. Develop and implement a process to help the data owners monitor records retention in their areas of responsibility.
2. Better define the records retention responsibilities of the Operations Manager.
3. Coordinate with data owners to reduce cost of storage by retaining data appropriately in different Tiers.¹
4. Revise the record retention policy to reduce storage costs, and to mitigate risks from possible data breach.

During follow-up work, we identified some areas of clarification regarding the records retention manager and identified an updated implementation date of October 2019.

Recommendation:

Ensure records retention manager duties are clearly defined and the records retention manager assists with the development of policies and procedures. Work with the program area and ISS to ensure data is classified into the correct tiers for optimum cost savings.

¹ This part of the recommendation is stated to have been implemented by 09/01/2017.

Management Response:

To implement the recommendations provided by the internal audit report, management has established a Records Retention Committee comprised of representatives from every division and department. The committee has been charged with developing an agency policy and procedures relating to records retention to reduce storage costs and to mitigate risks from possible data breach. The committee will also develop and implement a process to help data owners monitor records retention in their areas of their respective division/department on an ongoing basis. The role of the Records Management Officer has been redefined as the coordinator for the committee to acknowledge that records retention is a shared responsibility of every division and department, and to take into account the lack of resources that prohibits the agency from dedicating a full-time FTE to oversee agency-wide compliance with records retention. Management has also declared December 17-21, 2018 as Records Retention Clean-Up Week to allow employees sufficient time to clean up their records in accordance with the agency's Records Retention Schedule. An agency-wide announcement with supporting materials was sent on November 21 in preparation of Clean Up Week. Management will also present this information to employees at the agency-wide meeting scheduled for December 10.

We conducted this follow-up audit in conformance with the International Standards for the Professional Practice of Internal Auditing and in accordance with the Generally Accepted Government Auditing Standards (GAGAS).

If you have any questions or comments, please let me know.

Sincerely,



Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance
cc:

THECB

Board Members

Commissioner's Office

Dr. Raymund A. Paredes, Commissioner of Higher Education

Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communication/COO

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Mr. William Franz, General Counsel

Information Solutions and Services

Ms. Zhenzhen Sun, Associate Commissioner, ISS

STATUTORY DISTRIBUTION REQUIREMENT

Office of the Governor-Budget and Policy Division

Mr. John Colyandro, Policy Director

Legislative Budget Board

Ms. Julie Ivie, Assistant Director

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

Committee on Agency Operations

AGENDA ITEM VII-A

Update on Compliance Monitoring Reports and Activities

RECOMMENDATION: No action required

Background Information:

Update on Compliance Monitoring Reports

The Compliance Monitoring team completed two projects during the reporting period since the October 2018 Agency Operations Committee meeting. The final reports are attached.

Formula Funding Engagements Completed

- A Compliance Desk Review of Formula Funding at Wharton County Junior College (one finding).
- An Investigation of the Nursing Shortage Reduction Program and Related Matters at Coastal Bend College (two findings), and A Management Letter – An Investigation of the Nursing Shortage Reduction Program and Related Matters at Coastal Bend College.

Projects In Progress	Stage of Project
Coastal Bend College Investigation Phase II	Fieldwork

Other Compliance Monitoring Activities

- Training of two new Compliance Specialists
- Presentation at the Community, State, and Technical College Liaison Meeting, October 22, 2018
- Presentation at the Texas Association of College Registrars and Admissions Officers Conference, November 5, 2018

The final reports are attached. Mark Poehl, Director, Internal Audit and Compliance, will present this item to the Committee and is available to answer any questions.



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE

Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Ricky A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.thecb.state.tx.us>

November 27, 2018

Betty A. McCrohan, President
Wharton County Junior College
911 Boling Highway
Wharton, Texas 77488

Dear Ms. McCrohan,

I am attaching the final report on *A Desk Review of Formula Funding at Wharton County Junior College*, Report No. THECB-CM-FF-18-032. There was one finding related to information technology controls resulting from this engagement. Management's response has been incorporated into the final report.

Summary

Information security controls over student enrollment information at Wharton County Junior College require improvement. Audit trails over key enrollment data such as class meeting days and times must be established to ensure the reliability and integrity of data used for formula funding decision making purposes. Therefore, our original review objectives, including a determination of the accuracy of contact hours reported by Wharton County Junior College, were unable to be met. A follow up audit will be performed to evaluate Wharton County Junior College's information security controls as a basis for future base period assessment of the accuracy of contact hours reported for formula funding purposes.

This Compliance Monitoring report will be presented to the THECB Committee on Agency Operations, a standing committee of the THECB Board, in January 2019.

The cooperation of your staff during this review is greatly appreciated. If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

Detailed Observation, Recommendation and Management's Response

1. Information technology processes and controls over student information system enrollment data should be strengthened.

Information technology processes and controls over student information system enrollment data should be strengthened. Although Wharton County Junior College has policies and procedures in place to limit access to information systems, the student information system does not provide audit logs or change history for critical formula funding data, including:

- Credit hours
- Lab hours
- Lab contact hours
- Instruction mode
- Meeting times
- Lecture hours
- Lecture contact hours
- Type of Instruction
- Meeting days
- Instructor of record

Audit logs provide documentary evidence to track a sequence of events, and the ability to monitor unauthorized system use or unusual activity. Without audit logs, maintaining the integrity of system information, and ensuring the reliability of data is limited.

Family Educational Rights and Privacy Act (FERPA) 34 CFR 99.31(a)(1)(ii) requires that "An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests." Security standards (TAC 202) established by the Department of Information Resources (DIR) for institutions of higher education are also a good source of information to strengthen the information technology control environment.

Recommendation:

Capture and retain student information system audit logs or change history for the critical data used for formula funding.

Management Response:

The following corrective action or actions will be implemented by the director of database services regarding the information technology controls over student enrollment information at Wharton County Junior College:

- *The vendor database audit tracking feature will be activated. A launch date is anticipated in late April 2019.*
- *If the system experiences severe performance degradation while using the vendor database audit tracking feature, custom triggers will be created to*

capture changes to critical formula funding data. An anticipated implementation date will occur in June 2019.

PERFORMED BY:

Ms. Jamyen Robinson-Hall, Compliance Specialist

CC:

THECB

Board Members

Commissioner's Office

Dr. Raymund A. Paredes, Commissioner of Higher Education

Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communication

Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy

Mr. William Franz, General Counsel

Strategic Planning and Funding

Dr. Julie Eklund, Assistant Commissioner for Strategic Planning and Funding

Wharton County Junior College

Mr. P.D. "Danny" Gertson, Chair, Board of Trustees

Ms. Tessa Mathews, Director of Institutional Research

Ms. Pam Youngblood, Vice President of Technology

Dr. Amanda Allen, Vice President of Planning and Institutional Effectiveness

Texas Association of Community Colleges

Mr. Jacob Fraire, President and Chief Executive Officer

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

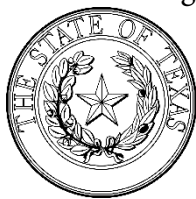
STATUTORY DISTRIBUTION REQUIREMENT

Office of the Governor-Budget and Policy Division

Mr. John Colyandro, Policy Director

Legislative Budget Board

Ms. Julie Ivie, Assistant Director



TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE

Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Rick A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.thecb.state.tx.us>

November 12, 2018

Dr. Beatriz Espinoza, President
Coastal Bend College
3800 Charco Rd
Beeville, TX 78102

Dr. Espinoza,

I am attaching the final report on *An Investigation of the Nursing Shortage Reduction Program and Related Matters at Coastal Bend College*. There were two findings resulting from this investigation.

1. Coastal Bend College did not properly administer the Nursing Shortage Reduction Program during fiscal years 2016 and 2017. Questioned costs of \$260,287 have been identified.
2. Coastal Bend College did not have processes to appropriately and consistently administer grade changes.

Management responses were excerpted and incorporated into applicable areas of the final report. Auditor follow up comments to management responses were also included. An as-submitted version of management responses is included as an attachment to the final report.

Other matters were communicated in a Management Letter and provided separately.

This Compliance Monitoring investigation report will be presented to the THECB Committee on Agency Operations, a standing committee of the THECB Board, on January 23, 2019.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

Investigation Overview

We have completed *An Investigation of the Nursing Shortage Reduction Program (NSRP) and Related Matters at Coastal Bend College (CBC)*. While other areas of investigation are still in progress, this letter communicates our NSRP-related findings. Additionally, management issues that fall outside of the scope of Compliance Monitoring authority were communicated to you separately, in a Management Letter.

Scope Limitation

Our investigation was inhibited by:

- a. Some CBC staff members and students would not openly share information regarding the administration of the NSRP, and grade changes. Certain CBC personnel including senior administrators, faculty and staff either refused to meet with us, or communicated with us informally, using non-CBC email accounts and physical meetings away from the CBC campuses to share information. A common theme communicated to the auditors by these individuals was that staff felt intimidated and threatened by the possible loss of their job if they were found to have been providing information or otherwise cooperating with the auditors.

Management Response:

First, we note that THECB audit staff did not communicate their requests for information through CBC management.

Second, the limitation is stated vaguely. CBC management has no knowledge of where such "threats" are originating.

Auditor Follow-up Comment:

Numerous CBC employees (faculty and staff) preferred to be interviewed at a neutral location away from campus due to their stated fears of being associated with the investigation and management reprisal for such. Similarly, numerous CBC employees would only communicate with the auditors using non-CBC email accounts. The auditors acknowledge that "...audit staff did not communicate their requests for information through CBC management...." To do so would have compromised the auditors' ability to conduct an independent investigation. The auditors further acknowledge that all specific documents requested were provided.

- b. CBC elected to retain an attorney for "Legal matters involving the Texas Higher Education Coordinating Board", while the investigation was still in progress. The

ability thereafter to obtain candid information directly from the source, such as CBC staff involved in transactions under review, was compromised. Thus, our findings are limited by the information we were able to obtain as a result of these restrictions.

Management Response:

CBC management feels this limitation is even more unfair and materially misconstrued what transpired.

...THECB had no direct communication with CBC's president concerning the scope or pace of the audit and never mentioned any concerns or limitations to her.

Auditor Follow-up Comment:

The auditor did not ask for assistance of counsel in obtaining information needed for the investigation. To the contrary, the auditor indicated that auditors seek information directly from the source of the information, to enhance the credibility and value of the information.

This engagement was an investigation and not an “audit”, as specified throughout the management response. The management response further asserts that it is not unusual for an institution to have counsel represent it “...with preparation of audit responses.” While this may be the case, the scope limitation did not occur with respect to responses, but rather with respect to obtaining candid information directly from the source, regarding transactions under review in an ongoing investigation. We noted the information provided by counsel predated the investigation reporting phase by several weeks.

It is acknowledged that communication with CBC employees was not expressly, to our knowledge, prohibited by management, and that management assisted in three cases where staff were not responding to emails from the auditors.

Detailed Observations, Recommendations, Management’s Response and Auditor Follow-up Comments

1. Nursing Shortage Reduction Program

CBC administration of the NSRP Grant resulted in substantial noncompliance with Coordinating Board requirements, and questioned costs of \$260,287. The accounting practice used during the 2016 and 2017 fiscal years did not meet the NSRP requirements for separately accounting for grant activity. Although a

separate grant account for NSRP existed, the manner in which the account was used did not account for the grant activity at the time such activity occurred. Grant expenses reported to the Coordinating Board for 2016 were not accounted for in the NSRP account and reported amounts were not supported by underlying documentation. All costs reported for fiscal year 2016, or \$100,923, are considered questioned costs.

In 2017, NSRP non-payroll grant expenses of \$76,564 reported for 2016 were not booked in a timely manner and we were unable to reconcile the amount reported to the amount recorded in the general ledger. Further, travel expense reports did not comply with CBC's travel guidelines for reimbursement. Expense reports were not approved and submitted timely to demonstrate adherence to CBC's travel policy (requiring submission of travel expense documentation within 10 days of the travel). Grant reporting is inhibited when expenses are not booked in a timely manner.

Grant payroll expenses reported for 2016 and 2017 were not supported by time and effort certification, in accordance with CBC policy and sound grant management practices. Staff reported as paid by the grant were unaware that their time and effort was associated with the grant. NSRP payroll expenditures reported in fiscal year 2017 for the 2017 grant period were \$82,800 and are considered questioned costs.

Total questioned costs for the NSRP grant are \$260,287, which includes \$100,923 reported for fiscal year 2016, \$76,564 reported for fiscal year 2016 in fiscal year 2017 (non-payroll expenses), and \$82,800 of payroll expenditures reported for fiscal year 2017. Questioned costs are detailed in **Exhibit 1 Summary of Questioned Costs**.

Recommendations

Refund \$260,287 in reported NSRP expenses to the Texas Higher Education Coordinating Board.

Establish appropriate controls to ensure that the NSRP grant is appropriately accounted for.

Ensure that time and effort reports supporting reported grant amounts adhere to CBC policy and sound grant management principles.

Comply with CBC travel policy regarding timely submission of travel claims to ensure accurate grant reporting.

Management Response:

First, CBC's Chief Financial Officer ("CFO") at the time of the noncompliance relating to the NSRP grant was Ms. Dela Castillo.

Auditor Follow-up Comment:

NSRP program reports dated June 8, 2017, October 12, 2017, and March 20, 2018 were signed by Ms. Shannon McCarron, CFO and Ms. Julia Garcia, Dean of Workforce Training (June and October reports) and Ms. Shannon McCarron, CFO and Ms. Loana Hernandez, Assistant Dean of Allied Health (March report) and submitted to the Coordinating Board.

Management Response:

Of the \$76,564 of non-payroll grant expenses reported for fiscal year 2016, CBC management submits that \$25,906 was accurately reported and should not be refunded.

Although these expenses were initially recorded in CBC's Unrestricted Operating Budget, they were later (prior to the end of the fiscal year) journalized to the NSRP's grant and can be directly reconciled to the CBC's RN program.

Auditor Follow-up Comment:

THECB is not requesting that Coastal Bend College refund any money for failure to comply with travel policy. The travel non-compliance was only an incidental factor for the questioned costs reported in fiscal year 2017, for the fiscal year 2016 grant. These costs were questioned because the accounting entries were not booked until the eleventh month of the fiscal year and the amounts reported to the Coordinating Board did not reconcile to the grant account in the CBC general ledger.

Thus, the Coordinating Board continues to request that CBC repay \$260,287.

Management Response:

CBC management is unaware of any applicable CBC policy that imposes a requirement to track time and effort associated with any particular grant.

Auditor Follow-up Comment:

THECB conducted and reported on a federal desk review of the Carl D. Perkins Act Grant during fiscal year 2017. CBC, in response to the auditor's request for

information as part of the desk review, provided a document titled “Time and Effort Procedure for Grant-Funded Employees” (see **Exhibit 2**).

2. Grade Changes

Processes for making changes to academic grades requires significant improvement. Weaknesses in grade change controls subject CBC to risk of unauthorized and inappropriate grade changes.

a. Policies and procedures for grade changes are not documented

Varying versions of the process to review and execute grade changes were noted, and no written grade change policy exists. The Registrar and staff member who were interviewed regarding the actual practices used for grade changes provided conflicting information regarding the requirement for faculty approval for grade changes.

b. Grade changes were not properly authorized

Nursing curriculum-related grade changes were initiated in 275 instances for 124 students for exams administered throughout the fall 2017 semester. All 275 grade changes were completed on or after January 28, 2018, which was 45 days from the end of the fall 2017 semester (December 15, 2017). Spring semester 2018 began on January 22, 2018.

- 139 (50.5%) grade changes did not contain a faculty signature, as required by the grade change form.
- Eight students were changed from a failing to passing grade, including three students whose grade change form did not contain a faculty signature. Due to the time lag between semester end and grade change processing, student matriculation could have been negatively impacted.
- 16 grade change forms had a blank “reason for change” line.
- 31 grade changes forms were not processed; therefore, the student transcripts do not reflect the changes indicated on the grade change forms.
- Seven grade change forms were unable to be tested, because a transcript was not available or was incomplete.

Grade change forms for 21 instances were reviewed for the spring 2018 semester. Eight of these 21 (38%) grade change forms had an incorrect letter grade typed in the "change letter grade from" box. This error moved the student from a fail to pass status.

The Nursing Faculty Handbook (2012) states that "item analysis will be performed on all exams"; "Adjustments to tests will be according to assessment of the test items and according to applicable and appropriate student challenge of test questions"; "Item analysis will reflect all alterations made to the original, such as multiple correct options, etc." The Assistant Dean of Allied Health described how Item Analysis should be performed, and the description involved a group of faculty members reviewing exam scores and documenting their determination on an item-by-item basis. The available evidence did not substantiate this process description, for grade changes reviewed from the fall 2017 and spring 2018 semesters. Nor does CBC have a documented item analysis policy.

Based on the Nursing Faculty Handbook criteria for item analysis, it can be reasonably inferred that only a faculty member would have the knowledge and information to conduct and approve changes resulting from such an analysis. In comparing practices with other colleges and universities, grade changes at these institutions are faculty-centered and are only executed without faculty authorization when justified by extenuating circumstances (e.g., faculty member death).

Weak controls over both grant administration and grade changes indicate weak institutional integrity and could result in numerous impacts including accreditation issues. The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) Resource Manual Section 1.1 states, "Institutional integrity is essential to the purpose of higher education. Integrity functions as the basic covenant defining the relationship between the Southern Association of Colleges and Schools (SACSCOC) and its member and candidate institutions."

Recommendations

Reform the grade change process by establishing appropriate controls to ensure that grade changes are authorized, documented, and in agreement with newly created CBC policy and accreditation principles.

Review the 38 exceptions including unprocessed grade change forms and instances of students missing transcripts to determine what, if any, action is necessary for student grades to be accurate.

Management Response:

CBC understands that its process for grade changes needs to be tightened. Therefore, CBC is already diligently at work on creating, adopting and maintaining a clear, concise process and procedure for grade changes in the future. We began this process in the late summer of 2018 and plan to take the new policy to our board for approval before the end of the year, allowing for full implementation in 2019. The new policy addresses the following material points:

- Who may initiate a grade change, including the requirement of documented instructor approval*
- Detailed procedures for filling out and submitting grade change forms*
- Strict deadline for when grade changes must be complete*
- Procedures for grade changes due to extenuating circumstances*
- Comprehensive training for faculty and staff on the new policy and procedures will be mandatory in the first quarter of 2019. On June 5, 2018 and September 1, 2018 all full-time employees were trained in FERPA. Training on the new grade change policy will include brief reminders on FERPA as it relates to grade changes.*

We believe the new policy, when implemented and adhered to, will address all concerns related to previous grade changes noted in the draft report.

As to the past grade changes mentioned in the draft report; CBC wishes to note:

- There were 272 unduplicated grade change forms submitted for 124 students. 142 of those grade change forms were signed by faculty (52%)*
- Eight students were changed from a failing to a passing grade, 4 of those students were allowed to return to the vocational nursing program because that was the only class that they failed*
- Fall grades were submitted on December 21, 2017 which was the same day*

that faculty, staff and administration went on winter leave

- *It was brought to the attention of the Interim Director of the Vocational Nursing Program, Loana Hernandez, that the initial report of a faculty member not performing the required item analysis for their class (4 instructors teach the same class) had not been resolved near the end of the week of January 8, 2018*
- *Item analysis and recalculation was performed through the weekend of January 13, 2018*
- *Spring semester began January 16, 2018*
- *Results of analysis and recalculation were presented to Dean of Workforce and permission was granted to change grades on January 16, 2018*
- *Students that would be able to return to program (4) due to the grade changes were contacted and instructors were informed on January 16, 2018*

Also, please find attached a letter from Loana Hernandez, Assistant Dean of Allied Health, further explaining the grade changes to the Texas Board of Nurses.

Finally, with regard to grade changes the draft report notes that "Due to the time lag between semester end and grade change processing student matriculation could have been negatively impacted. "The reason for the time lag is explained above and as also stated the potential time lag issue will be fully addressed in the new policy requiring prompt processing for grade changes. However, CBC wishes to note that even as to past grade changes, no actual impact on matriculation was noted or occurred and respectfully requests that the final report note that fact.

Auditor Follow-up Comment:

CBC did not address the 31 instances noted in the report finding #2, where the student transcript did not match grade change forms, or the seven instances where the auditors could not test transcripts because documentation was not available or was incomplete. Additional due diligence is needed by CBC before a conclusion can be determined that no actual impact on matriculation occurred.

Exhibit 1 Summary of Questioned Costs

Coastal Bend College Nursing Shortage Reduction Program Reports	Report Date	Reported Expenses 2016	Questioned Costs
Report 1 (2016)	June 22, 2017	\$100,924	\$100,924
Report 2 (2016)	October 12, 2017	\$76,563	\$76,563
			\$177,487
	Report Date	Reported Expenses 2017	Questioned Costs
Report 3 (2017)	March 20, 2018	\$174,494	\$82,800
			\$82,800
Total Questioned Costs			\$260,287

Exhibit 2 Time and Effort Procedures for Grant-Related Employees



Time and Effort Procedures for Grant-Funded Employees

Background

As part of Coastal Bend College's ongoing effort to increase and retain outside funding sources, the procedures for time and effort reporting for grant-funded employees have changed. Time and effort is required of employees paid from federal, state, or other third-party funding. This policy is not new, however the level of enforcement is.

Revised Time and Effort Procedure

Effective March 18, 2014, time and effort reports for each grant-funded employee must accompany the employee's payroll timesheet. Absence of this documentation may result in delays in the processing of the employee's payroll. This documentation should be submitted to the payroll department no later than the regular deadline for each payroll period. Each time and effort submission should be fully-completed and signed by both the employee and the supervisor.

Please contact the Business Office if you have any questions regarding this update.

Attachment: Coastal Bend College As-Submitted Management Response

Beatriz T. Espinoza, Ph.D.
President



Phone: (361) 354-2200
Fax: (361) 354-2333
presoffice@coastalbend.edu
www.coastalbend.edu

November 5, 2018

Mr. Mark Poehl – Director, Internal Audit & Compliance
The Texas Higher Education Coordinating Board
1200 East Anderson Lane
Austin, Texas 78752
Email: mark.poehl@THECB.state.tx.us

Dear Mr. Poehl,

Thank you for the opportunity to review the draft report and findings of THECB Internal Audit and Compliance regarding the Nursing Shortage Reduction Program (NSRP) at Coastal Bend College (CBC). CBC executive management listened and has now reviewed in detail the draft report along with its advisors. This letter is management's initial response and action plan. As you will note below, we are requesting material changes to the draft report and accordingly respectfully request the opportunity to supplement management's response and commit to further remedial action if THECB revises the draft report.

First, let me say that CBC management takes the audit process and THECB's findings very seriously. We strive to operate CBC for the educational benefit of its students in a fiscally responsible manner. Some of the issues noted in the THECB draft report were realized by CBC administration and corrective actions are already underway; as detailed below. We hereby commit to see those remedial measures through to successful implementation and undertake the additional

measures discussed in this letter. We appreciate THECB highlighting these issues and giving us further guidance towards corrective action.

Before moving to our specific responses and action plan, I do want to point out the significant context in which the THECB audit of the NSRP grant and related matters at CBC occurred. As I am sure you are aware, the audit was conducted at a time when there has been a pitched battle raging in Beeville concerning CBC. A group of disgruntled former employees wish to bring down and “re-build CBC.” They care not what CBC means to the community and hear no other voices. They simply want their vision to prevail and look to CBC as their personal benefactor. We know these voices have been in active communication with THECB. We feel their voices have been heard above those currently entrusted to deliver the mission of CBC. The result is that we believe the tone and substance of the draft audit report have been unduly colored by those in the community who want to gain control of CBC going forward. We ask only that you hear our voice through this response letter and any answers we can provide to follow-up questions or requests for information. As noted in the concluding section of this response letter, much has been accomplished at CBC in recent years. As we stated at the debrief, we continue to stand ready to continue progress and provide information and assist in your inquiries. In the end, we pledge whatever additional corrective action is necessary.

Scope Limitations

The draft report sets forth two limitations which THECB alleges “inhibited” its investigation. We strongly object to both and respectfully request that they be removed or substantially modified as discussed below. Simultaneously and/or alternatively we hereby

unequivocally state that CBC management will undertake whatever actions you request of us to alleviate or mitigate any effects of the alleged limitations set forth in the draft report.

Our specific responses to each limitation are as follows:

Limitation 1

“Some CBC staff members and students would not openly share information regarding the administration of the NSRP, and grade changes. Certain CBC personnel including senior administrators, faculty and staff either refused to meet with us, or communicated with us informally, using non-CBC email accounts and physical meetings away from the CBC campuses to share information. A common theme communicated to the auditors by these individuals was that staff felt intimidated and threatened by the possible loss of their job if they were found to have been providing information or otherwise cooperating with the auditors.”

Management Response to Limitation 1

First, we note that THECB audit staff did not communicate their requests for information through CBC management. CBC management was not and still is not precisely aware of what information was sought in all instances. CBC management’s instructions to staff were and remain “cooperate fully.” If THECB had brought (or now brings) to CBC management any instances of staff not complying with requests for information, it would have immediately issued (or will now issue) additional directions to fulfill all requests.

Second, the limitation is stated vaguely. CBC management has no knowledge of where such “threats” are originating. Perhaps THECB doesn’t either. Under these circumstances, it is

grossly unfair to imply CBC management was somehow encouraging non-compliance with the audit. No such actions were ever undertaken by CBC management. Again, if THECB brings any specific instances of “threats” or “intimidation” to our attention we will promptly take appropriate action.

Third, we believe we heard you say in the de-briefing that THECB audit staff has no knowledge of any information it did not receive due to any feelings of “threats” or “intimidation” directed at staff. If THECB feels it is missing any information, please alert us immediately and we will see that it is in the hands of THECB audit staff as soon as possible. Absent more specific detail unknown to us, this seems like a theoretical limitation on the audit at best – CBC management should at least have the opportunity to alleviate your concerns or this limitation of scope should be removed from the final report or substantially modified to be clear that THECB has no knowledge of current management threatening jobs if staff complied with audit requests.

Fourth, and finally, CBC management has recent and definitive evidence that a culture of threats and intimidation does not exist on campus. CBC recently completed a campus-wide anonymous survey of employees. The results – across all categories of employees, 87% report they are “supported in their work at CBC.” Accordingly, any observations by THECB to the contrary during the audit were anomalies and do not reflect the overall culture at CBC.

Limitation 2

“CBC elected to retain an attorney for “Legal matters involving the Texas Higher Education Coordination Board”, while the investigation was still in progress. The ability thereafter to obtain candid information directly from the source, such as CBC staff involved in transactions under review, was compromised.”

Management Response to Limitation 2

CBC management feels this limitation is even more unfair and materially misconstrued what transpired. It is accurate that CBC did retain the services of an attorney to assist it in a) responding to the audit; and b) communicating to THECB its earnest desires to cooperate and begin the post-audit process of any remedial action necessary. It is an undisputable fact that retention of outside counsel did not “inhibit” THECB’s audit. To the contrary, outside counsel expedited and assisted in providing information responses in two instances near the end of the audit. In fact, from the time THECB announced its audit until the time outside counsel was retained, THECB had no direct communication with CBC’s president concerning the scope or pace of the audit and never mentioned any concerns or limitations to her. She was never given any opportunity to alleviate or mitigate these alleged limitations.

The facts of these interactions are not controverted. Retained counsel contacted Mr. Poehl and stated that CBC was anxious to complete the audit and move into the remediation phase. Counsel asked if there were pending/open requests for information. Mr. Poehl responded that there were two items related to: 1) a purchase of furniture; and 2) resurfacing of a parking lot. Counsel, forthwith, contacted CBC management, communicated that exact nature of the information request as relayed to him by Mr. Poehl, and then assembled the information received from CBC and delivered it to THECB. At no time was THECB audit staff told it could not communicate with CBC staff. Far from THECB requests for information being “inhibited” such requests were furthered. In the de-brief, THECB readily agreed that this alleged limitation did not result in the withholding of any information. Accordingly, the inclusion of this limitation seems to fit squarely in the category of “no good deed goes unpunished.”

Continued inclusion of this limitation in the final audit report would have a chilling impact on a college's right to retain counsel and would ironically impinge on its desire to be as responsive to audits as possible. It is no secret that audits by a higher education regulatory authority are not a usual occurrence. Staff responsible for the day-to-day operations of the campus are not uniformly familiar with the audit process. Attorneys are routinely involved in assisting with audit responses both behind the scenes and forward-facing to the auditor in both public and private entities. Large institutions of higher education have whole armies of in-house attorneys (sometimes specifically charged with and specializing in audits and tax matters) who routinely assist with preparation of audit responses. CBC's retained counsel for this matter has himself sat in on audit de-briefs for other institutions of higher education and never has his presence been raised as a limitation on the scope of the audit. Is CBC to be denied that right to efficiently respond to an audit because it is a small community college that cannot afford a large in-house legal team? In fact, CBC has no in-house attorneys at its beck and call.

In sum, this alleged limitation of scope is grossly unfair and inaccurately implies CBC's earnest desire to efficiently respond to the audit somehow created an impingement on the performance of the audit. The limitation language inaccurately and unfairly strongly implies CBC was attempting to curtail the audit by seeking legal counsel. CBC respectfully requests that this alleged limitation be removed from the audit report especially in light of the fact that THECB audit staff admits that no interference with the audit occurred and outside counsel's interaction with THECB actually expedited the delivery of information to THECB.

Next, we address the draft reports' findings.

1. Nursing Shortage Reduction Program

“CBC management of the NSRP Grant resulted in substantial noncompliance with Coordinating Board requirements, and questioned costs of \$260,287. The accounting practice used during the 2016 and 2017 fiscal years did not meet the NSRP requirements for separately accounting for grant activity. Although a separate grant account for NSRP existed, the manner in which the account was used did not account for the grant activity at the time such activity occurred. Grant expenses reported to the Coordinating Board in 2016 were not accounted for in the NSRP account and reported amounts were not supported by underlying documentation. All costs reported in fiscal year 2016, or \$100,923, are considered questioned costs.

In 2017, NSRP non-payroll grant expenses of \$76,564 reported for 2016 were not booked in a timely manner and we were unable to reconcile the amount reported to the amount recording in the general ledger. Further, travel expense reports did not comply with CBC’s travel guidelines for reimbursement. Expense reports were not approved and submitted timely to demonstrate adherence to CBC’s travel policy (requiring submission of travel expense documentation within 10 days of the travel). Grant reporting is inhibited when expenses are not booked in a timely manner.

Grant payroll expense reported for 2016 and 2017 were not supported by time and effort certification, in accordance with CBC policy and sound grant management practices. Staff reported as paid by the grant were unaware that their time and effort was associated with the grant. NSRP payroll expenditures reported in fiscal year 2017 for the 2016 grant period were \$82,800 and are considered questioned costs.

“CBC management of the NSRP Grant resulted in substantial noncompliance with Coordinating Board requirements, and questioned costs of \$260,287. The accounting practice used during the 2016 and 2017 fiscal years did not meet the NSRP requirements for separately accounting for grant activity. Although a separate grant account for NSRP existed, the manner in which the account was used did not account for the grant activity at the time such activity occurred. Grant expenses reported to the Coordinating Board in 2016 were not accounted for in the NSRP account and reported amounts were not supported by underlying documentation. All costs reported in fiscal year 2016, or \$100,923, are considered questioned costs.

In 2017, NSRP non-payroll grant expenses of \$76,564 reported for 2016 were not booked in a timely manner and we were unable to reconcile the amount reported to the amount recording in the general ledger. Further, travel expense reports did not comply with CBC’s travel guidelines for reimbursement. Expense reports were not approved and submitted timely to demonstrate adherence to CBC’s travel policy (requiring submission of travel expense documentation within 10 days of the travel). Grant reporting is inhibited when expenses are not booked in a timely manner.

Grant payroll expense reported for 2016 and 2017 were not supported by time and effort certification, in accordance with CBC policy and sound grant management practices. Staff reported as paid by the grant were unaware that their time and effort was associated with the grant. NSRP payroll expenditures reported in fiscal year 2017 for the 2016 grant period were \$82,800 and are considered questioned costs.

Total questioned costs for the 2016 NSRP grant are \$260,287, which includes \$100,923 reported in fiscal year 2016, \$76,564 reported in fiscal year 2017 (non-payroll expenses), and \$82,800 of payroll expenditures reported in fiscal year 2017.”

Management’s Response to NSRP Audit Findings

Regarding THECB concerns with CBC’s administration of the NSRP grant for fiscal years 2016 and 2017, CBC acknowledges the shortcomings of its grant administration process and procedures relating to the NSRP grant and is taking measures to ensure compliance with grant requirements in the future.

First, CBC’s Chief Financial Officer (“CFO”) at the time of the noncompliance relating to the NSRP grant was Ms. Dela Castillo. Errors were made by the CFO at that time when the NSRP general ledger numbers were set up, which caused the time and effort of employees not at the Pleasanton campus to not be properly reflected with regard to the NSRP grant. Ms. Castillo resigned from her position in April 2017 and CBC has been without a permanent CFO since that time, despite active and continuous posting for the position. The absence of a qualified CFO has materially contributed to the deficiencies identified by THECB.

Moving forward, however, Olga Mendez joins CBC as its new CFO during the first week of November. Ms. Mendez comes to CBC from West Oso Independent School District, where she has served for more than 15 years as the Accounting Manager. As West Oso ISD’s Accounting Manager, Ms. Mendez’s primary duties were maintaining internal control procedures, reconciliations, annual audit compilation, and financial software administrator. Prior to West Oso ISD, Ms. Mendez worked at a consulting firm that specialized in audits of public sector institutions

and grants compliance. We fully anticipate that Ms. Mendez will oversee a revitalization and enhancement of CBC's grant administration.

Additionally, as a result of CBC management's internal investigation into NSRP grant compliance matters, CBC management recognized the need for centralized ownership of grants reporting and management functions. Steps are being implemented to further centralize and standardize grant management at CBC, but frankly, these changes, among others, are the types of management processes that have drawn the most vocal protests from the "Rebuild CBC" crowd.

CBC has added a grants Compliance and Reporting Manager, Anna Tarver, to its staff. Ms. Tarver assumed her role in August 2018, after previously working with the Texas Comptroller of Public Accounts. Ms. Tarver has extensive experience conducting tax audits, trainings, and account reconciliations. Her experience with both state and federal will assist CBC with ensuring accurate and timely reporting requirements and general compliance practices are met in the future.

CBC management is confident that with the significant additions of a knowledgeable CFO and experienced grants Compliance and Reporting Manager, coupled with extensive training for both new and existing CBC staff, CBC will be able to ensure compliance with federal, state, and local business-related requirements in the future.

Second, at no time prior to THECB's review of CBC's NSRP grant was CBC management alerted that an issue existed with respect to its administration of the grant. CBC's external auditing firm that performs CBC's annual audit did not conduct a review CBC's state grants in the auditing process. The auditors informed CBC management that CBC did not possess a sufficient amount of state grants to warrant a sampling review of CBC's state grants. Indeed, as reflected in the most recent audit report, operating revenues stemming from state grants and contracts amounted to \$608,382 in fiscal year 2017 and \$239,327 in fiscal year 2016, compared to total CBC operating

revenues of \$9,236,224 in 2017 and \$9,430,920 in 2016. Consequently, all state grants and contracts amounted to less than 6.6% of CBC's operating revenues in 2017 and approximately 2.5% of CBC's operating revenues in 2016.

Third, CBC has already begun the process of reviewing and revising its procurement, internal control, accounting, budgeting, and grants management policies and procedures. In addition to working with its outside legal counsel, where appropriate, in the review and revision process, CBC is exploring the engagement of one or more experienced consultants to not only assist CBC with the documentation review and revision process, but also to conduct hands-on training of CBC staff to ensure that the revised policies and procedures are implemented timely and accurately.¹ One of the consultants being evaluated by CBC for a potential partnership has assisted several K-12 institutions with becoming compliant with applicable rules, regulations, and best practices applicable to business offices after those institutions were under scrutiny by the Texas Education Agency for their financial-related practices. CBC management expects to complete this review and implementation of necessary changes by the end of the first quarter of 2019.

It is the paramount goal of CBC management to ensure CBC's compliance with applicable laws, rules, and regulations as well as CBC policies and procedures. CBC's efforts to ensure compliance detailed above will, we believe, prevent any similar findings issued by THECB or any other auditor in the future.

With regard to the findings by THECB relating to the NSRP grant for fiscal years 2016 and 2017, CBC management provides the following additional information and clarification, to assist THECB in finalizing its NSRP-related findings. Should THECB auditors require additional

¹ In addition to future training, CBC employees in the business office have recently attended a training relating to the NSRP Grant on August 16, 2018.

information, please contact CBC management and we will promptly provide all additional information requested.

a) CBC did not separately account for grant activity in fiscal years 2016 and 2017.

THECB states that the accounting practices used during fiscal years 2016 and 2017 did not separately account for grant activity. Although journal entries were recorded relating to the NSRP grant toward the end of the applicable fiscal year, CBC management acknowledges that direct expense entries to a separate grant account were not made. In addition to the NSRP training recently attended by several CBC employees involved in the administration of the NSRP grant, CBC management is confident that the measures already undertaken and that will be taken will remedy any future compliance issue in this area.

b) Of the \$76,564 of non-payroll grant expenses reported for fiscal year 2016, CBC management submits that \$25,906 was accurately reported and should not be refunded.

Non-payroll grant expenses of \$76,564 were reported for fiscal year 2016. THECB asserts that these expenses were not booked in a timely manner and cannot be reconciled. CBC management believes that \$25,906 was accurately reported and documentation was submitted during the audit showing that those expenses were properly attributed to the NSRP grant. Although these expenses were initially recorded in CBC's Unrestricted Operating Budget, they were later (prior to the end of the fiscal year) journalized to the NSRP grant and can be directly reconciled to the CBC's RN program. In sum, the original error in reporting was corrected and no malfeasance occurred with regard to these journalized entries. Consequently, CBC management requests that THECB reduce its requested refund amount by \$25,906 – i.e. – \$50,658 refund.

c) Travel expense reports did not comply with CBC's rigid travel guidelines for reimbursement, and those guidelines are currently being revised.

THECB states that "travel expense reports did not comply with CBC's travel guidelines for reimbursement. Expense reports were not approved and submitted timely to demonstrate adherence to CBC's travel policy "requiring submission of travel expense documentation within 10 days of the travel." Although CBC management is unaware of any state law or THECB requirement for travel expense documentation to be submitted within 10 days of travel, CBC's travel procedures² at the time did provide that travel expense forms were required to be submitted within 10 days of travel for reimbursement. This was a policy inherited by current CBC management. It imposes an unduly rigid and unrealistic requirement on those seeking travel reimbursement. Given this, CBC management acknowledges that the travel expense reports related to the NSRP grant were not submitted within 10 days of travel. Because it does not appear the submission and approval of the expense reports in question violates any terms of the NSRP grant, state law, THECB policy or even widely accepted expense control procedures, CBC management believes these travel expenses should not be subject to refund.

CBC management is currently revising its travel guidelines, including revising the documentation submission requirement to reflect a 30-day deadline post-travel for submission of documentation to qualify for reimbursement. The 30-day deadline is widely accepted across educational institutions and indeed by most private and public institutions as an appropriate time

² Although THECB refers to CBC's travel guidelines as a "policy," these guidelines are not, in fact, part of CBC Board-approved policy. CBC's travel guidelines appear to take the form of an exhibit to policy (specifically, DEE (Exhibit)), but these guidelines do not appear in CBC Board-approved policies listed in CBC's TASB Policy Online service. See <https://pol.tasb.org/home/index/155>. Rather, the guidelines are administrative procedures. Therefore, CBC management requests that all references to the travel guidelines as "policy" in THECB's correspondence be revised to reflect the accurate term of "procedures" or "guidelines" and not "policy."

period for submission of documentation for travel. CBC should not be penalized when the travel reimbursements in question did not violate the widely and near-universal standard in state government.

d) Grant payroll expenses for 2016 and 2017 were not supported by time and effort certification. CBC management is implementing corrective measures to ensure compliance with time and effort reporting requirements in the future.

THECB states that “[g]rant payroll expenses reported for 2016 and 2017 were not supported by time and effort certification, in accordance with CBC policy and sound grant management practices.” CBC management is unaware of any applicable CBC policy that imposes a requirement to track time and effort associated with any particular grant. Indeed, a search of the phrase “time and effort” in CBC’s Policy Online revealed no such applicable requirement. CBC management requests that the final report indicate which CBC policy imposes a time and effort reporting requirement or in the event no such applicable policy can be identified, CBC management requests that THECB revise its final report relating to this issue to remove any reference to CBC’s failure to comply with its own policy.

Notwithstanding the foregoing, CBC management recognizes that it is a best practice and almost universal standard in grant management to maintain time and effort documentation. Going forward, CBC management will implement this best practice in grants management. The new personnel identified above will ensure prompt action on this issue. Finally, it is worth noting that the grant periods remain open until 2020 and 2021 respectively and CBC might yet allocate appropriate expenses to the grants.

2. Grade Changes

The draft report's finds regarding grade changes:

"Processes for making changes to academic grades requires significant improvement. Weaknesses in grade change controls subject CBC to risk of unauthorized and inappropriate grade changes.

- a. Policies and procedures for grade changes are not documented

Varying versions of the process to review and execute grade changes were noted, and no written grade change policy exists. The Registrar and staff member who were interviewed regarding the actual practices used for grade changes provided conflicting information regarding the requirement for faculty approval for grade changes.

- b. Grade changes were not properly authorized

Nursing curriculum-related grade changes were initiated in 275 instances for 124 students for exams administered throughout the fall 2017 semester. All 275 grade changes were completed on or after January 28, 2018, which was 45 days from the end of the fall 2017 semester (December 15, 2017). Spring semester 2018 began on January 22, 2018."

Management's Response to Audit Report Findings Regarding Grade Changes

CBC understands that its process for grade changes needs to be tightened. Therefore, CBC is already diligently at work on creating, adopting and maintaining a clear, concise process and

procedure for grade changes in the future. We began this process in the late summer of 2018 and plan to take the new policy to our board for approval before the end of the year, allowing for full implementation in 2019. The new policy addresses the following material points:

- Who may initiate a grade change, including the requirement of documented instructor approval
- Detailed procedures for filling out and submitting grade change forms
- Strict deadline for when grade changes must be complete
- Procedures for grade changes due to extenuating circumstances
- Comprehensive training for faculty and staff on the new policy and procedures will be mandatory in the first quarter of 2019. On June 5th, 2018 and September 1st, 2018 all full-time employees were trained in FERPA. Training on the new grade change policy will include brief reminders on FERPA as it relates to grade changes.

We believe the new policy, when implemented and adhered to, will address all concerns related to previous grade changes noted in the draft report.

As to the past grade changes mentioned in the draft report; CBC wishes to note:

- There were 272 unduplicated grade change forms submitted for 124 students. 142 of those grade change forms were signed by faculty (52%)

- Eight students were changed from a failing to a passing grade, 4 of those students were allowed to return to the vocational nursing program because that was the only class that they failed
- Fall grades were submitted on December 21st, 2017 which was the same day that faculty, staff and administration went on winter leave
- It was brought to the attention of the Interim Director of the Vocational Nursing Program, Loana Hernandez, that the initial report of a faculty member not performing the required item analysis for their class (4 instructors teach the same class) had not been resolved near the end of the week of January 8, 2018
- Item analysis and recalculation was performed through the weekend of January 13, 2018
- Spring semester began January 16, 2018
- Results of analysis and recalculation were presented to Dean of Workforce and permission was granted to change grades on January 16, 2018
- Students that would be able to return to program (4) due to the grade changes were contacted and instructors were informed on January 16, 2018

Also, please find attached a letter from Loana Hernandez, Assistant Dean of Allied Health, further explaining the grade changes to the Texas Board of Nurses.

Finally, with regard to grade changes the draft report notes that “Due to the time lag between semester end and grade change processing, student matriculation could have been

negatively impacted.” The reason for the time lag is explained above and as also stated the potential time lag issue will be fully addressed in the new policy requiring prompt processing for grade changes. However, CBC wishes to note that even as to past grade changes, no actual impact on matriculation was noted or occurred and respectfully requests that the final report note that fact.

Concluding Comments

In the face of THECB audit findings, it is important not to lose focus on the big picture. Those who are disgruntled over changes made at CBC over the past six years can be unhappy, but they cannot argue with the results, especially the fact that CBC has gone from near bankruptcy to a debt-free institution with reserves (growing each year) in the time the current administration has been at its helm.

The program excellence is superb and leading in the state, student enrollment is up and community partnerships are strong. Graduation rates at CBC exceed the statewide average after three years, four years and six years, and our average time to achieve an associate degree is ahead of the state average.

Once graduated, students have less student loan debt – almost \$4,000 less – than other comparable students from around the state of Texas. The most important factor: Students are more likely to be employed or pursuing additional academic programs than the statewide average of other community colleges.

All in all, CBC is a good value and a great partner for the region. This change is because of efforts to enhance the culture of excellence, accountability and affordability. Goals THECB has always indicated it embraces.

CBC will of course address the issues identified by THECB audit staff. In short order its grant administration will rival its other administrative functions as best in class.

Sincerely,



Dr. Beatriz Espinoza, President
Coastal Bend College

Enclosure: Letter from Loana Hernandez to Texas Board of Nursing



MEMORANDUM

TO: Texas Board of Nurses
From: Loana Hernandez
Date: May 28, 2018
Subject: Information regarding grade changes

Our vocational nursing program has 4 sites operating under one program code. The instructors ensure the consistent delivery of instruction across all four sites by creating one syllabus and schedule for each course that the instructors follow. There is one "lead" instructor for each course who creates the schedule, assignments and exams for the course. The following points are the events that occurred that led up to grades being changed in the vocational nursing program:

1. A student contacted the lead course of a course to inform her that her test was compromised. The student sent the instructor a copy of the test bank that had been used to create the exam. Instructors had been informed that test banks were available online and they were not to be used to make exams prior to this instance. The instructor changed future exams rewording the test bank questions to trick the students.
2. All of the students failed the following two exams and all of the faculty members became upset because that lead instructor sent a message to the faculty that she was not going to do an item analysis and not going to throw out any questions. This upset all of the faculty.
3. We had a faculty meeting to address everyone's concerns. In this meeting the faculty decided that each faculty member would contribute 10 questions for each exam in the courses that they teach. I instructed all of the faculty members to run item analysis on all of their exams and review the results as a team and decide which questions to "throw out".
4. After the final exams, one instructor approached me stating that one of the instructors didn't perform the item analysis. I told the instructor to get with the team and discuss the issue. The day after that we went on our winter break.
5. When we returned from break the instructor informed me that the item analysis was never performed in that course. She said that the lead instructor stated that she was not going to do the item analysis or throw any questions out because she had a student that she didn't want to pass. The instructor that gave me this information voiced her concern that it was unfair to her students.
6. I asked the lead instructor for that course if she had done the item analysis. She told me that she had and that her team decided to throw out questions that less than 30% of students got correct.
7. I ran item analysis on all the course exams and gave credit for any questions that less than 30% of students got correct. I adjusted the grades accordingly. This led to four students passing that



had been dropped from the program for academic failure. This all occurred on the first day of classes so the students and faculty were informed at that time.

8. I submitted all of the grade change forms to the admissions office for all of the number grades that were changed (275 grades for 129 students) regardless if the letter grade changed (56 grades) or not. Out of the 56 letter grades that were changed only 7 of them were from failing to a passing grade. There were 3 grade changes that were done because the instructor put the wrong grade in for the wrong student. Other than those 3 grades, all the grade changes were 2-3 points only.
9. I submitted a disciplinary form against the faculty that did not perform the item analysis.
10. Our VN program received grant funds to update the equipment in our labs but the spring enrollment of students had no bearing on this grant. Our ADN program receives grant funds for the NSRP but the grade changes did not involve the ADN students.

I hope that this clarifies the situation that had been reported in the news media. If you have any other questions, please let me know.

PERFORMED BY:

Mr. Mark Poehl, CPA, CIA, CISA, CFE, Director, Internal Audit and Compliance
Ms. Janyen Robinson-Hall, Compliance Specialist
Ms. Michelle Koog, CISA, Internal Auditor
Ms. Carol Conner, Compliance Specialist
Mr. Bobby Lane, Compliance Specialist

cc:

THECB

Board Members

Commissioner's Office

Dr. Raymund A. Paredes, Commissioner of Higher Education
Ms. Linda Battles, Deputy Commissioner for Agency Operations and Communication/COO
Dr. David Gardner, Deputy Commissioner for Academic Planning and Policy
Mr. William Franz, General Counsel

Strategic Planning and Funding

Dr. Julie Eklund, Assistant Commissioner Strategic Planning and Funding

Coastal Bend College

Members, Coastal Bend College, Board of Trustees
Ms. Shannon McCarron, VP of Strategic Planning and Administration
Mr. Bernie Saenz, Director of Marketing and Public Relations
Ms. Loana Hernandez, Assistant Dean of Allied Health

Texas Association of Community Colleges

Mr. Jacob Fraire, President and Chief Executive Officer

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

STATUTORY DISTRIBUTION REQUIREMENT

Office of the Governor-Budget and Policy Division

Mr. John Colyandro, Policy Director

Legislative Budget Board

Ms. Julie Ivie, Assistant Director

TEXAS HIGHER EDUCATION COORDINATING BOARD

P.O. Box 12788 Austin, Texas 78711



Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR
John T. Steen, Jr.
SECRETARY OF THE BOARD

Michelle Q. Tran
STUDENT REPRESENTATIVE
Arcilia C. Acosta
S. Javaid Anwar
Michael J. Plank
Ricky A. Raven
Donna N. Williams
Welcome Wilson, Jr.

Raymund A. Paredes
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.theccb.state.tx.us>

November 12, 2018

Dr. Beatriz Espinoza, President
Coastal Bend College
3800 Charco Rd
Beeville, TX 78102

Dr. Espinoza,

Certain issues came to our attention during our investigation of the Nursing Shortage Reduction Program that were outside the scope of our investigation. These issues are characterized below and provided for information.

As previously noted in the Management Letter draft and discussed in a status briefing on October 18, 2018 the Management Letter did not require management response. Nevertheless, Coastal Bend College elected to provide responses to the management letter and these responses have been included both excerpted, with auditor follow up comments, and as-submitted, in Management Letter Attachment 1.

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl". The signature is written in a cursive, flowing style.

Mark A. Poehl, CPA, CIA, CISA, CFE
Director, Internal Audit and Compliance

cc: Members, Coastal Bend College Board of Trustees

Control Environment

According to the Committee of Sponsoring Organizations of the Treadway Commission 2013 Internal Control - Integrated Framework, **“The control environment is the set of standards, processes, and structures that provide the basis for carrying out internal control across the organization. The board of directors and senior management establish the tone at the top regarding the importance of internal control and expected standards of conduct.”**

Procurement and expenditure practices reflect a weak control environment, and routinely do not comply with CBC policy or result in the most efficient use of CBC funds. We noted:

A policy change in December 2017 that eliminated¹ most purchasing approval levels and competitive procurement requirements that had previously been in place for purchases under \$50,000. The policy change also eliminated the CBC Citibank procurement card policy and created a policy void in an area of high inherent risk.

Expenditures, including those involving the CBC senior leadership team, that do not document best value procurement considerations and that do not address possible conflict of interest, for example; include:

An expenditure of \$1,400.00 was made in January 2018, through Accounts Payable, to reimburse the President for Santa’s Sleigh and Santa’s Village that were provided for the 2017 CBC Holiday Program and Evening with Santa. There were no notations on the invoice regarding informal bids or other cost comparisons. The invoice indicated supplies, materials and labor, but did not provide a breakdown of amounts and receipts were not available for supplies and materials.

The use of CBC Citibank procurement cards in a way that inhibits accountability through a lack of basic controls such as card user agreements and card tracking. Risk is exacerbated because there is no policy regarding card use, restrictions, oversight and documentation requirements.

CBC Citibank procurement cards used for travel and other purchases resulted in \$1,462.95 in interest paid during fiscal year 2018 due to weak procurement practices. An outstanding balance is carried on the CBC Citibank card. CBC pays Citibank for only those credit card transactions when supporting documentation is provided to the Business Office. Outstanding items representing 198 transactions for which a balance was carried on the Citibank card went back approximately one year and totaled \$29,477.68 as of June 2018. Some old, outstanding items are associated with senior management expenditures for which supporting documentation has not been provided to the Business Office. For example:

¹ Please see correction in auditor follow-up comments.

The Dean of Workforce Training made four CBC Citibank card purchases totaling \$175.27 from October – December of 2017, for which supporting documentation has not been provided to the Business Office as of September 24, 2018 and that continue to be carried in the credit card balance that CBC pays interest on each month.

Management Response: Control Environment

THECB alleges that CBC's "[p]rocurement and expenditure practices reflect a weak control environment, and routinely do not comply with CBC policy or result in the most efficient use of funds." To support this contention, THECB cites a handful of examples – all of which involve a de minimis amount of funds in comparison to CBC's overall budget of approximately \$23 million annually – and none of which is alleged to have been an unlawful or even imprudent expenditure of funds.

Auditor Follow-up Comment:

Expenditure compliance issues were noted throughout the period of records the auditors reviewed, for fiscal years 2013 through mid-2017. Over 150 transactions with compliance issues and other concerns have been provided to relevant authorities. THECB found insufficient and non-compliant documentation to support transactions such as:

- a. travel reimbursements with incomplete supporting documentation and with unallowable meal tips routinely included
- b. athletic department expenditures with no evidence of competitive or best value procurement consideration
- c. outsourced construction work expenditures with little or no evidence of competitive or best value procurement consideration

Further, CBC's management response on page 4, item #5, states that CBC is "undertaking measures to ensure that proper procedures and oversight of the P-card program are developed and implemented...." This response serves to reinforce that the examples cited in the Management Letter are indicative of broader, systemic issues with procurement and expenditure practices.

Management Response: December 2017 Procurement Policy Change

THECB's referenced concern regarding the elimination of "most purchasing approval levels and competitive procurement requirements that had previously been in place for purchases under \$50,000" is unfounded.

Auditor Follow-up Comment:

We acknowledge the information presented by management regarding the change to board policy pursuant to a change in TASB policy, and the incorrect statement in the Management Letter regarding a December 2017 change that "...eliminated most

purchasing approval levels and competitive procurement requirements that had previously been in place for purchases under \$50,000.”

Generally, we received inconsistent policy documents, and staff descriptions of policy requirements, during the investigation. This policy administration weakness is further evidenced by management’s acknowledgement on page 13 of its response to the Investigation Report that “CBC management is unaware of any applicable CBC policy that imposes a requirement to track time and effort associated with any particular grant.” See Exhibit 1 “Time and Effort Procedures for Grant-Funded Employees.”

Management Response: Best Value Procurement

THECB’s description of the \$1,400 reimbursement – for which a detailed invoice was submitted – implies that CBC improperly expended funds, which is not the case. Indeed, THECB is unable to point to any law or policy that CBC violated with regard to this expenditure.

Auditor Follow-up Comment:

Please see the follow up comment regarding numerous transactions that have been referred to other authorities for further review. The invoice accompanying this payment (See Exhibit 2 Santa’s Sleigh and Santa’s Village Payment Documents) was not sufficiently detailed. It did not provide a breakdown based on receipts or other documentation between the cost of materials, supplies, and delivery versus labor. With the amount for labor unknown, there is no way to determine whether a fair price was charged. Further, with the amount for labor unknown, there is no way to determine how much taxable income should be added to the President’s W-2 for the reporting period.

Management Response – Unsupported Credit Card Expenditures

Amberlee Johnson, an Accounts Payable Specialist at CBC, is responsible for collecting and maintaining receipts for expenditures by CBC employees conducting college business. In the past, employees questioned about not submitting receipts have reported that they did submit receipts to Ms. Johnson, but those receipts were misplaced. The Dean of Workforce Administration, Julia Garcia, contends that she submitted the receipts in question to Ms. Johnson contemporaneously during the October to December 2017 timeframe, which leads to the conclusion that the receipts were misplaced thereafter.

Auditor Follow-up Comment:

Emails dated December 2017 and June 2018, were sent by Ms. Amberlee Johnson, Accounts Payable Specialist to Ms. Julia Garcia, Dean of Workforce Training (December 2017) and Ms. Peggy Meyer, Admin Support Specialist (June 2018),

specifically requesting the missing receipts for the transactions noted in the Management Letter.

The Lost Receipt Forms signed by Ms. Julia Garcia and dated October 30, 2018 are not signed by, nor refer to, Ms. Amberlee Johnson.

Communication

Information reported by CBC staff regarding nursing program grade changes was inaccurate, suggesting ineffective oversight over important communications that may result in a loss of credibility and poor stakeholder perceptions. Specifically:

- In a video posted to Facebook with CBC's official response to grade change allegations, the Director of Marketing and PR stated, "Grade changes enabled four students to move from a failing to a passing grade." Our review disclosed that the grade changes resulted in eight students moving from a failing to a passing grade.
- In a memo to the Board of Nursing, the Assistant Dean of Allied Health stated, "I submitted all of the grade change forms to the admissions office for all of the number grades that were changed (275 grades **for 129 students**) regardless if the letter grade changed (56 grades) or not. Out of the 56 letter grades that were changed, **only seven of them were from failing to a passing grade**. Three grade changes were done because the instructor put the wrong grade in for the wrong student. **Other than those 3 grades, all the grade changes were 2-3 points only**" (emphasis added).
- Our review disclosed that 275 grade changes were made for 124 students, and that the grade changes resulted in eight students moving from a failing to a passing grade. Further, the range of grade change points was negative one point to positive five points (after accounting for the three grade changes errors made on behalf of the instructor). Sixteen grade changes were for four points, and one grade change was for five points.

Management Response: Alleged inaccurate communications regarding CBC nursing program grade changes

THECB management letter implies there is something wrong with CBC's overall communications operation. To the contrary, the letter cites but one example related to grade changes in the nursing program. At best, this is an isolated incident of an issue not being explained completely to the satisfaction of those second guessing the communications in question. As such, CBC is unsure why this issue is even the subject of a management letter comment. Certainly, CBC is not aware of any precedent for such a comment in a management letter.

Auditor Follow-up Comment:

Regarding communication issues, in a video posted to the CBC Facebook site, Mr. Bernard Saenz, Director of Marketing & Public Relations, stated “Changes that were made by the registrar’s office had authorized signatures and followed the item analysis as per CBC policy, and as stated in the Texas Board of Nursing Guidelines.” Per our review, 50.5% of grade change forms did not contain a faculty signature and were not properly authorized. This is discussed further in the final report *An Investigation of the Nursing Shortage Reduction Program and Related Matters at Coastal Bend College*.

The Board of Nursing (BON) guidelines referenced by Mr. Saenz are not a requirement. Specific BON language related to item analysis defines the minimum steps for an item analysis. Per the BON² ” ITEM ANALYSIS - Analysis of examinations **can** be done using a variety of manual or computerized methods. Item analysis **should** include: discrimination index, difficulty level, response distribution, and student feedback. Test items **should** be revised based on the results of item analysis. Policies **should** indicate criteria for selection of items to be discarded, revised, and/or replaced” (**emphasis added**).

² TEXAS BOARD OF NURSING 3.7.3.a. EDUCATION GUIDELINE Student Evaluation Methods and Tools
https://www.bon.texas.gov/pdfs/education_pdfs/education_nursing_guidelines/3.7Program_of_Study/3-7-3-a.pdf

Exhibit 1: Time and Effort Procedures for Grant-Funded Employees



Time and Effort Procedures for Grant-Funded Employees

Background

As part of Coastal Bend College's ongoing effort to increase and retain outside funding sources, the procedures for time and effort reporting for grant-funded employees have changed. Time and effort is required of employees paid from federal, state, or other third-party funding. This policy is not new, however the level of enforcement is.

Revised Time and Effort Procedure

Effective March 18, 2014, time and effort reports for each grant-funded employee must accompany the employee's payroll timesheet. Absence of this documentation may result in delays in the processing of the employee's payroll. This documentation should be submitted to the payroll department no later than the regular deadline for each payroll period. Each time and effort submission should be fully-completed and signed by both the employee and the supervisor.

Please contact the Business Office if you have any questions regarding this update.

Exhibit 2 Santa's Sleigh and Santa's Village Payment Documents

December 11, 2017

Coastal Bend College
3800 Charco Rd.
Beeville, TX 78102

RE: Reimbursement for Costs Paid for and Associated with Holiday Program – Evening with Santa

Santa's sleigh for pictures – supplies, materials, labor, and delivery is \$800. CBC maintains ownership of the sled.

Santa's village comprised of six different sets – 1 barn, 2 gingerbread houses, 1 church, 1 snoopy dog house, and 1 school house – supplies, materials, labor, and delivery is \$600. CBC maintains ownership of the village.

Reimburse: Beatriz Espinoza [REDACTED]

10-11000-1-65708
OK to pay
Mary Cowan
1-8-18

Exhibit 2 Santa's Sleigh and Santa's Village Payment Documents (cont.)

Mary Cowan

From: ellucian@coastalbend.edu
Sent: Monday, January 8, 2018 2:54 PM
To: Mary Cowan
Subject: Voucher Confirmation: V0001653

Voucher Number V0001653
Voucher Status Not Approved

Requestor Name Mary Cowan

Voucher Date 01/08/18
Due Date 01/08/18
Vendor ID and/or Name [REDACTED] Beatriz Espinoza
AP Type GENF CBC Regular Accounts Payable
Voucher Total \$1,400.00

ITEM 1

Item Description Santa's Sleigh
Quantity 1.000
Price \$800.0000
Extended Price \$800.00
GL Distribution 10-11000-1-65708 President's Office : Other Operating Expenses

ITEM 2

Item Description Santa's Village
Quantity 1.000
Price \$600.0000
Extended Price \$600.00
GL Distribution 10-11000-1-65708 President's Office : Other Operating Expenses

COMMENTS

Reimbursement for Costs Paid for and Associated with Holiday Program-Evening with Santa

APPROVAL DATE

NEXT APPROVALS
Beatriz Espinoza

Exhibit 2 Santa's Sleigh and Santa's Village Payment Documents (cont.)

<div> COASTAL BEND COLLEGE Beeville * Alice * Kingsville * Pleasanton </div>				
NO: 100809				
INVOICE DATE	DESCRIPTION	INVOICE NUMBER	PURCHASE ORDER NUMBER	AMOUNT PAID
01/08/18	Santa's Sleigh	V0001653		800.00
01/08/18	Santa's Village	V0001653		600.00
VENDOR NUMBER		TOTALS		\$1,400.00

Check void after 180 days

NO: 100809

DATE
Jan 23, 2018

Coastal Bend COLLEGE
Beeville * Alice * Kingsville * Pleasanton

PROPERTY BANK
Beeville, TX

AMOUNT
\$1,400.00

PAY EXACTLY ONE THOUSAND FOUR HUNDRED AND 00/100 DOLLARS

TO THE ORDER OF
Beatriz Espinoza

[Signature]

THIS CHECK IS VOID WITHOUT THE SIGNATURE OF THE ISSUING OFFICIAL

Attachment 1: Coastal Bend College As-Submitted Management Response

Beatriz T. Espinoza, Ph.D.
President



Phone: (361) 354-2200
Fax: (361) 354-2333
presoffice@coastalbend.edu
www.coastalbend.edu

November 5, 2018

Mr. Mark Poehl
Director of Internal Audit & Compliance
Texas Higher Education Coordinating Board
1200 East Anderson Lane
Austin, Texas 78752
mark.poehl@THECB.state.tx.us

Re: CBC's management response to control environment and communication concerns raised in October 18, 2018 draft correspondence

Dear Mr. Poehl,

On behalf of the Coastal Bend College ("CBC" or the "College") management, I provide the following response to your draft correspondence outlining concerns regarding CBC's control environment and specific communications relating to grade changes at the College. Although the draft letter states that no management response is required, addressing the concerns raised by THECB is important to CBC.

A. Allegations regarding CBC's Control Environment

1. Statement that CBC "routinely" fails to comply with CBC policy or results in inefficient use of resources is factually unsupported.

THECB alleges that CBC's "[p]rocurement and expenditure practices reflect a weak control environment, and routinely do not comply with CBC policy or result in the most efficient use of CBC funds." To support this contention, THECB cites a handful of examples – all of which involve a de minimis amount of funds in comparison to CBC's overall budget of approximately \$23 million annually – and none of which is alleged to have been an unlawful or even imprudent expenditure of funds.

That being said, CBC management is already taking measures to strengthen its control environment, as detailed more fully below. To state that CBC "routinely" fails to comply with policy is not supported by the facts and mischaracterizes the true state of affairs at CBC. Consequently, CBC management requests that THECB remove this misleading characterization from its final letter.

2. The policy change in December 2017 occurred at the instance of TASB Policy Services, and CBC's local procurement and purchasing policy has not changed since March 2015.

THECB contends that "[a] policy change [occurred] in December 2017, that eliminated most purchasing approval levels and competitive procurement requirements that had previously been in place for purchases under \$50,000."

The policy change referenced by THECB in its correspondence is CBC Policy CF (Legal), titled "Purchasing and Acquisition." THECB's referenced concern regarding the elimination of "most purchasing approval levels and competitive procurement requirements that had previously been in place for purchases under \$50,000" is unfounded.

First, for state and local funds, there are no legally imposed competitive procurement requirements for purchases under \$50,000. Indeed, the legal requirement to competitively procure goods and services, with some exceptions, is only triggered for purchases valued at \$50,000 or more in the aggregate for each 12-month period. See TEX. EDUC. CODE § 44.031(a); see also TEX. EDUC. CODE §§ 44.0311(a), 130.010 (applying the provisions of Chapter 44, Subchapter B to junior college districts' purchases of goods and services). Second, CBC did not initiate the changes to Policy CF (Legal); rather, the revised legal policy was issued by the Texas Association of School Boards' Policy Services and includes all pertinent legal requirements relating to purchasing and acquisition.¹

As shown from the face of the policy, Policy CF (Legal) was updated in December 2017 as part of TASB's Update 33. A comparison of the substance of TASB's Policy CF (Legal), available in TASB's Community College Policy Reference Manual, to CBC's Policy CF (Legal) shows that CBC's policy is identical to TASB's model policy, with the sole exception of the "date issued."² The legal policy includes all pertinent legal authority governing CBC's purchases and acquisitions.

¹ Like many junior colleges and independent school districts in Texas, CBC uses the services of the Texas Association of School Boards' Policy Services, including subscribing to TASB's Policy On Line®. Part of CBC's subscription to TASB Policy Services includes the receipt of major policy updates – typically two to three annually. As described by TASB:

"These updates respond to changes in state and federal law, court cases, and decisions by attorneys general and by the commissioner of education. Updates are delivered as packets containing both statutory legal changes and TASB's suggestions for the district's local policies. Each packet is uniquely tailored to its individual district...."

See Texas Association of School Boards, Inc., "Policy Service Numbered Updates," available at <https://www.tashb.org/Services/Policy-Service/Policy-Maintenance-Services/Numbered-Updates.aspx> (last visited October 25, 2018).

² TASB's model Policy CF (Legal) reflects a date issued of November 3, 2017, whereas CBC's Policy CF (Legal) reflects a date issued of December 5, 2017. The approximately one-month time span is due to the date that TASB physically posted CBC's policy on the Policy On Line service tool.

Any purported concern relating to the revised Policy CF (Legal) is unfounded, including for the reasons detailed in the following section, and CBC management requests that THECB remove its references to the policy change from its final correspondence. It is also worth noting that \$50,000 is approximately .2% of CBC's annual budget. Moreover, and once again, THECB has not shown, nor does it allege that, any purchase by CBC under \$50,000 was illegitimate or fraudulent in any way.

3. No evidence exists that CBC did not follow "best value procurement" rules, and THECB fails to allege any perceived or actual conflict of interest related to expenditures.

THECB alleges that "[e]xpenditures, including those involving CBC senior leadership team, [exist] that do not document best value procurement considerations and that do not address possible conflict of interest."

The only example cited by THECB that allegedly did not "document best value procurement considerations" that is unrelated to a P-Card purchase is the expenditure of \$1,400 in January 2018 to reimburse CBC President for Santa's Sleigh and Santa's Village, an expenditure that related to the 2017 CBC Holiday Program and Evening with Santa. This \$1,400 expenditure was not required to be competitively procured and was not subject to Section 44.031(a)'s best value determination, because Section 44.031(a)'s \$50,000 threshold was not triggered by this purchase. Even assuming, arguendo, that THECB is correct in its statement that "[t]here were no notations on the invoice regarding informal bids or other cost comparisons," such is the case because no informal bids, quotes, or cost comparisons are required for such an extremely small purchase - .006% of CBC's annual budget. Indeed, Texas law's procurement requirements are not invoked unless and until the aggregate expenditure exceeds \$50,000. No applicable Texas state law requires informal bids, quotes, or cost comparisons for purchases of less than \$50,000, especially here where it would be grossly impractical and unreasonable to conduct a competitive bid process for such a unique, one-time, extremely small purchase. Even at the federal level, the Uniform Guidance, 2 CFR Part 200, does not require informal quotes unless the micro-purchase threshold - currently set at \$10,000 - is exceeded. See 2 C.F.R. § 200.320(a)-(b).

THECB's description of the \$1,400 reimbursement - for which a detailed invoice was submitted - implies that CBC improperly expended funds, which is not the case. Indeed, THECB is unable to point to any law or policy that CBC violated with regard to this expenditure.

Similarly, although THECB alleges that "[e]xpenditures...do not address possible conflict of interest," THECB's correspondence fails to identify any alleged conflict of interest. CBC management is unaware of any actual or perceived conflict of interest relating to any of the expenditures identified in THECB's correspondence.

For these reasons, CBC management requests that THECB remove its references to the \$1,400 reimbursement, and any conflict of interest from its final correspondence.

4. CBC management has accounted for the \$175.27 in credit card expenditures.

THECB contends, "The Dean of Workforce Training made four CBC Citibank card purchases totaling \$175.27 from October – December 2017, for which supporting documentation has not been provided to the Business Office as of September 24, 2018"

Amerblee Johnson, an Accounts Payable Specialist at CBC, is responsible for collecting and maintaining receipts for expenditures by CBC employees conducting college business. In the past, employees questioned about not submitting receipts have reported that they did submit receipts to Ms. Johnson, but those receipts were misplaced. The Dean of Workforce Administration, Julia Garcia, contends that she submitted the receipts in question to Ms. Johnson contemporaneously during the October to December 2017 timeframe, which leads to the conclusion that the receipts were misplaced thereafter.

With that said, CBC is attaching three lost receipt forms and a photocopy of another receipt, totaling \$175.27, accounting for the four transactions that THECB questions in the management letter. Going forward, CBC intends to provide additional training to Ms. Johnson and other accounting staff to stress the importance of properly maintaining receipts for expenditures of CBC funds, including credit card purchases. Further, as explained more below, CBC is already in the process of tightening its procedures and controls over purchases on CBC's Citibank card.

5. CBC is undertaking measures to strengthen procedures and oversight of Procurement Card purchases.

THECB raises several concerns relating to CBC's Procurement Card ("P-Card"), including "a lack of basic controls such as card user agreements and card tracking," the absence of a policy "regarding card use, restrictions, oversight and documentation requirements," and cites to several examples to conclude that CBC has a "weak control environment." CBC is undertaking measures to ensure that proper procedures and oversight of the P-Card program are developed and implemented, including a proposed addition to Policy CF (Local), new P-Card administrative procedures, and a P-Card user agreement.

Regarding the lack of a policy reference to P-Cards, a search of the terms "p-card" and "procurement card" reveals no results in TASB's Community College Policy Reference Manual. Similarly, a brief, informal review of numerous junior college districts' policies shows that the topic of P-Cards is often not addressed in Board policy. Nevertheless, CBC management is in the process of preparing a draft Policy CF (Local) to include the addition of a P-Card section, for the Board of Trustees' review and potential approval. The proposed addition to Policy CF (Local) will require P-Card users to abide by the College's P-Card administrative procedures and will require administrative oversight of the P-Card program.

CBC management has also already begun the process of drafting new P-Card administrative procedures, which will address the following topics: duties and responsibilities, program controls, making a purchase, reconciliation and reallocation, consequences for improper use of a P-Card, etc. Similarly, CBC management is working with legal counsel to develop a user agreement to be executed by all P-Card users.

Additionally, CBC management has already implemented a change, to be effective January 1, 2019, to the previously inefficient practice of carrying an outstanding balance and incurring interest on CBC Citibank card. As THECB noted, prior internal practices prevented CBC from making payment on the P-Card until all documentation had been received and reconciled in CBC Business Office. As CBC migrates to its new ERP, the process for payment of the P-Card is being modified to reflect more pragmatic operating procedures.

Once the P-Card administrative procedures, revised policy, and end-user agreement are finalized, CBC management will require all P-Card users to attend training addressing P-Card requirements.

Finally, as detailed in CBC management's response to THECB's correspondence relating to the NSRP-related findings, in addition to working with its outside legal counsel, where appropriate, in the review and revision process for procurement, internal control, P-Card, accounting, budgeting, and grants management policies and procedures, CBC is exploring the engagement of one or more experienced consultants to not only assist CBC with the documentation review and revision process but also to conduct hands-on training of CBC staff to ensure that the revised policies and procedures are implemented timely and accurately. One of the consultants being evaluated by CBC for a potential partnership has assisted several K-12 institutions with becoming compliant with applicable rules, regulations, and best practices applicable to business offices after those institutions were under scrutiny by the Texas Education Agency for their financial-related practices.

CBC management is confident that with the significant additions of a knowledgeable CFO and a contractual relationship with an experienced consultant, CBC will be able to improve its P-Card practices and procedures.

B. Alleged inaccurate communications regarding CBC nursing program grade changes

THECB management letter implies there is something wrong with CBC's overall communications operation. To the contrary, the letter cites but one example related to grade changes in the nursing program. At best, this is an isolated incident of an issue not being explained completely to the satisfaction of those second guessing the communications in question. As such, CBC is unsure why this issue is even the subject of a management letter comment. Certainly, CBC is not aware of any precedent for such a comment in a management letter.

As to the allegedly erroneous communication at issue, CBC submits the following 2 responses. First, the video mentions 4 students. These 4 students were moved from failing to passing in all their classes in the vocational nursing program which allowed them to continue their studies in the program. The video did not fully explain this fact but there was not misstatement of facts or any intention to mislead.

Second, THECB complains about the numbers cited in a memo prepared by the Assistant Dean and sent to the Board of Nurses. The Assistant Dean simply miscounted. The correct numbers are 272 non-duplicate grade change forms submitted for a total of 124 students. These totals

include 56 letter grade changes resulting in 8 grade changes from fail to pass. The revised memo with the updated accurate numbers has now been resent to the Board of Nurses.

In sum, there is no corrective action to be taken and nothing CBC is aware of needs to be changed regarding its communications policies and procedures. As such, this comment in a management letter is inappropriate and should be removed.

Sincerely,



Dr. Beatriz Espinoza, President



Lost Receipt Form

TO: Business Office
FROM: Dean Greer
DATE: 10/30/18
SUBJECT: Lost Receipt

I understand that I was responsible for obtaining a receipt for my purchase; however I have either misplaced the receipt or it is lost. I request that the following purchase information below be used as verification and support for my purchase.

Date: 10/26/17
Vendor: Sr Sandeep Singh
City, State: San Diego, CA
Amount: \$ 1806
Items Purchased: TAXI FARE
Event Description: HACU Conference
Account Number: 02-2011-01-58000

I understand the policy of Coastal Bend College is to submit a receipt as proof of purchase for any goods purchased on behalf of the institution. I agree to follow the college policy.


Signature

coastalbend.edu   

Beeville: 1800 Chaco Road, Beeville, TX, 78102 • 361-546-2938



Lost Receipt Form

TO: Business Office
FROM: Dean Garcia
DATE: 10/30/18
SUBJECT: Lost Receipt

I understand that I was responsible for obtaining a receipt for my purchase, however I have either misplaced the receipt or it is lost. I request that the following purchase information below be used as verification and support for my purchase.

Date: 12/14/17
Vendor: HEB
City, State: Pleasanton, TX
Amount: \$43.17
Items Purchased: Christmas Luncheon Items
Event Description: Item for Christmas Luncheon in Pleasanton
Account Number: 02-2011-01-5800

I understand the policy of Coastal Bend College is to submit a receipt as proof of purchase for any goods purchased on behalf of the institution. I agree to follow the college policy.


Signature

coastalbend.edu   

Wesliffe 3000 Chapel Road, Baytown, TX, 77520 • TEL 281-281-2810



Lost Receipt Form

TO: Business Office
FROM: Dean Garcia
DATE: 10/30/18
SUBJECT: Lost Receipt

I understand that I was responsible for obtaining a receipt for my purchase; however I have either misplaced the receipt or it is lost. I request that the following purchase information below be used as verification and support for my purchase.

Date: 10/12/17
Vendor: Corner Store
City, State: Pleasanton, TX
Amount: \$ 19.04
Items Purchased: GASOLINE
Event Description: GASOLINE FOR VAN #1
Pleasanton State Van
Account Number: 02-2016-01-58000

I understand the policy of Coastal Bend College is to submit a receipt as proof of purchase for any goods purchased on behalf of the institution. I agree to follow the college policy.


Signature:

coastalbend.edu   

Bexville: 3000 Clayton Road, Bexville, TX, 78102 • 361.358.2838

TDLR-0060036531
TDLR-0050189780
VEHICLE STORAGE FACILITY
PERMIT # 187-000001

**ZAMORA'S WRECKER SERVICE
EAGLE TOWING**

24/7 SERVICE
614 PALO BLANCO
MISSION, TEXAS 78572
PH: 956-585-5579 FAX: 956-585-5673
PH: 956-585-2595

9912

STORAGE AREA:
3512 N. LA HOMA RD.
2.10 MILE N. LA HOMA RD.

☐ Regulated ☐ Not Regulated

DATE: 10-21-97 TIME DISPATCHED: 9:00 AM TIME IN: 10:00 AM REQUESTED BY: John Samra
LOCATION: 10-3512 N. LA HOMA RD. 455 MISS

1st TOW TO: OWNER NAME: ☐ TDLR # 3763 JOE
2nd TOW TO: ADDRESS: ☐ TDLR # 7538 GUMARO

VEHICLE MAKE: Dodge YEAR: 1994 MAKE/AND MODEL: White 124-2989

CHARGE TO NAME: COASTAL Bend WRECKER CHARGE: 95.00
COMPLETE ADDRESS: College SPECIAL EQUIPMENT: LABOR CHARGE:

PHONE: 956-585-193 REASON FOR TOW: ☐ ACCIDENT ☐ ABANDONED ☐ ARREST ☐ BREAK DOWN ☐ STOLEN

☐ CHECKS ☐ CASH ☐ CREDIT CARD ☒ CREDIT CARD

PAID 11-6-17

WAITING TIME CHARGE: 20 TR

TOWED TO: 1-65ER341582

BURNS Motor, 7/1/00

DATE OF RELEASE: X DELIVERY CHARGE: TOTAL: 95.00

ALERT CONSUMERS TO THE TEXAS DEPARTMENT OF LICENSING & REGULATION - LICENSING DIVISION P.O. BOX 128701 DALLAS, TEXAS 75212-0701 1-800-455-6228

1-210-291-6816

Beville 70102
115 SAINT MARTIN ST

COMPANY: [illegible] 1-800-572-5721
 1000 W. 10th Street
 KANSAS CITY, MO 64108
 816-481-1000

Attention: Mr. [illegible]
 Date: 10-10-00

Sale

K-1000
 11/17/00 11:05:17
 Entry Method: Manual
 Source: Online Entry: 000134
 11/17/00 12:02:14
 [illegible] 0010001 Date: 10/15/00

Amount:	1	55.00
Tax:	1	0.00
Total:	1	55.00

Customer Copy
 Please Print

Committee on Agency Operations

AGENDA ITEM VII-B

Consideration of adopting the staff's recommendation to the Committee relating to the Amended Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2019

RECOMMENDATION: Approval

Background Information:

The Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2019 was approved by the Agency Operations Committee in July 2018. Subsequent to plan submission for approval, Compliance Monitoring staff spent approximately six months working on a high priority project at Coastal Bend College. As a result, certain engagements on the Work Plan have been identified for elimination. The proposed changes to the Work Plan, as shown on the redline document, were made on a risk basis and reflect the elimination of nine engagements. These projects will be re-assessed for risk and incorporated, as appropriate, into the Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2020.

The proposed Amended Risk-Based Compliance Monitoring Work Plan for Fiscal Year 2019 and redline version are attached. Mark Poehl, Director, Internal Audit and Compliance, will present this item to the Committee and is available to answer any questions.

TEXAS HIGHER EDUCATION COORDINATING BOARD

INTERNAL AUDIT & COMPLIANCE MONITORING

Compliance Monitoring Plan, Amended January 2019

Fiscal Year 2019

Specific risk factors from Texas Administrative Code Section 1.13 Internal Auditor and Compliance Monitoring, were used to develop the Compliance Monitoring Annual Plan. These factors included:

- The amount of student financial assistance or grant funds allocated to the institution by the Board;
- Whether the institution is required to obtain and submit an independent audit;
- The institution's internal controls;
- The length of time since the institution's last desk review or site visit;
- Past misuse of funds or misreported data by the institution; and
- In regard to data verification, whether the data reported to the Board by the institution is used for determining funding

Risk-Based Reviews	<u>Hours</u>	<u>%</u>
1. Formula Funding at Institutions of Higher Education	1,725	59%

Perform reviews of contact hours at public community/junior colleges and formula variable reviews at other public institutions of higher education. Formula funding for institutions of higher education totals approximately \$4.2 billion annually.

Public Universities – 6 institution(s), based on risk assessment

Onsite Reviews

The University of Texas Rio Grande Valley
Tarleton State University
Stephen F. Austin University
University of Houston-Downtown

Desk Reviews

Texas A&M University - Corpus Christi
Texas A&M University - Kingsville

Public Community/Junior Colleges – 2 institution(s), based on risk assessment

Onsite Reviews

McLennan Community College

Desk Review

Grayson College

Risk-Based Reviews	<u>Hours</u>	<u>%</u>
<i>Public State Colleges – 1 institution, based on risk assessment</i>		
<u>Onsite Reviews</u>		
Lamar State College-Port Arthur		
2. Financial Assistance Compliance at Institutions of Higher Education	1,175	41%
Perform compliance reviews of student financial assistance or grant programs at public community/junior colleges or other public/private institutions of higher education. Financial assistance disbursed to colleges and universities in Texas totals approximately \$1.7 billion annually.		
<i>Public Universities – 4 institution(s), based on risk assessment</i>		
<u>Onsite Review</u>		
The University of Texas of the Permian Basin		
The University of Texas at El Paso		
Sam Houston State University		
<u>Desk Review</u>		
Texas A&M University-Commerce		
<i>Public Community/Junior Colleges – 2 institution(s) based on risk assessment</i>		
<u>Onsite Review</u>		
Clarendon College		
Alamo Community College District		
TOTAL RISK-BASED REVIEWS	2900	100%
Completion of FY18 Risk-Based Reviews		
	<u>Hours</u>	<u>%</u>
1. Formula Funding at Institutions of Higher Education		
1 institution	175	47%
2. Financial Assistance Compliance at Institutions of Higher Education		
1 institution	200	53%
TOTAL COMPLETION of FY18 REVIEWS	375	100%
Follow Up Reviews		
	<u>Hours</u>	<u>%</u>
3. Formula Funding at Institutions of Higher Education		
6 institution(s)	600	100%
TOTAL FOLLOW UP REVIEWS	600	100%

TEXAS HIGHER EDUCATION COORDINATING BOARD

INTERNAL AUDIT & COMPLIANCE MONITORING

Revised Compliance Monitoring Plan

Fiscal Year 2019

Specific risk factors from Texas Administrative Code Section 1.13 Internal Auditor and Compliance Monitoring, were used to develop the Compliance Monitoring Annual Plan. These factors included:

- The amount of student financial assistance or grant funds allocated to the institution by the Board;
- Whether the institution is required to obtain and submit an independent audit;
- The institution's internal controls;
- The length of time since the institution's last desk review or site visit;
- Past misuse of funds or misreported data by the institution; and
- In regard to data verification, whether the data reported to the Board by the institution is used for determining funding

Risk-Based Reviews

Hours

%

1. Formula Funding at Institutions of Higher Education	1,725	59%
	3,075	67%

Perform reviews of contact hours at public community/junior colleges and formula variable reviews at other public institutions of higher education. Formula funding for institutions of higher education totals approximately \$4.2 billion annually.

Public Universities – 6 institution(s), based on risk assessment

Onsite Reviews

The University of Texas Rio Grande Valley
 Tarleton State University
 Stephen F. Austin University
 University of Houston-Downtown

Desk Reviews

Texas A&M University – Corpus Christi
 Texas A&M University - Kingsville

Public Community/Junior Colleges – 8 institution(s), based on risk assessment

Onsite Reviews

~~Central Texas College (200)~~
~~Howard College (200)~~
~~North Central Texas College (200)~~
 McLennan Community College
~~Temple College (200)~~

Risk-Based Reviews**Hours****%**Desk Reviews

Grayson College

~~Laredo Community College (175)~~~~Lee College(175)~~**Public State Colleges** – 2 institution(s), based on risk assessmentOnsite Reviews~~Lamar Institute of Technology(200)~~

Lamar State College-Port Arthur

2. Financial Assistance Compliance at Institutions of Higher Education

1,175

41%

~~1,525~~ ~~33%~~

Perform compliance reviews of student financial assistance programs at public community/junior colleges or other public/private institutions of higher education. Student financial assistance disbursed to colleges and universities in Texas totals approximately \$1.7 billion annually.

Public Universities – 4 institution(s), based on risk assessmentOnsite Review

The University of Texas of the Permian Basin

The University of Texas at El Paso

Sam Houston State University

Desk Review

Texas A&M Commerce

Public Community/Junior Colleges – 3 institution(s) based on risk assessmentOnsite Review

Clarendon College

Alamo Community College District

Desk Review~~Ranger College (175)~~**Private Health Related Institutions** - 1 institution, based on risk assessmentDesk Review~~Baylor College of Medicine (175)~~**TOTAL RISK-BASED REVIEWS**

2900

100%

~~4600~~ ~~100%~~

Completion of FY18 Risk-Based Reviews

	<u>Hours</u>	<u>%</u>
1. Formula Funding at Institutions of Higher Education 1 institution	175	47%
2. Financial Aid Compliance at Institutions of Higher Education 1 institution	200	53%
TOTAL COMPLETION of FY18 REVIEWS	375	100%

Follow Up Reviews

	<u>Hours</u>	<u>%</u>
3. Formula Funding at Institutions of Higher Education 6 institution(s)	600	100%
TOTAL FOLLOW UP REVIEWS	600	100%