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☞ Details: Audit Letter Report (August 2005) Use of Outside Legal Counsel, Wisconsin Technical College System

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (October 2012)



STATE OF WISCONSIN

Legislative Audit Bureau

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Madison, Wisconsin 53703
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September 21, 2005

Janice Mueller
State Auditor

Senator Carol A. Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Roessler and Representative Jeskewitz:

On Tuesday, September 13, 2005, the Joint Legislative Audit Committee held a public hearing on our review of the Use of Outside Legal Counsel by Wisconsin's technical colleges. During the public testimony at the hearing, you asked that we provide additional information pertaining to the type of legal services provided by outside legal counsel to Gateway Technical College.

As shown in the attached table, 25.4 percent of Gateway's expenditures for outside legal counsel were for miscellaneous services in fiscal year 2003-04. This compares to the 14.5 percent allocated to this category by the eight technical college districts reviewed in greater detail in our August 2005 report.

I hope you find this information helpful. Please contact me with any further questions.

Sincerely,

Janice Mueller
State Auditor

JM/JC/km

Enclosure

cc: Senator Robert Cowles
Senator Scott Fitzgerald
Senator Mark Miller
Senator Julie Lassa

Representative Samantha Kerkman
Representative Dean Kaufert
Representative David Travis
Representative David Cullen

Sam Borden, President
Gateway Technical College

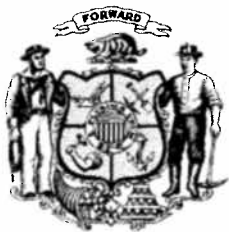
Lonnie Benning
Gateway Technical Education Association

Gateway Technical College Legal Services
Fiscal Year 2003-04

Type of Legal Services	Billable Hours	Percentage
Employment Issues	493	30.8%
Miscellaneous	407	25.4
Property / Real estate	250	15.6
Contract Issues	109	6.8
Immigration Issues	107	6.7
Board Services	92	5.7
Student Services	52	3.2
Training	42	2.6
Labor Negotiations	36	2.2
Litigation	9	0.6
Federal Communications Commissions Issues	4	0.3
Intellectual Property	1	0.1
Total	1,602	100.0%



WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

March 28, 2006

Mr. Daniel Clancy, President
Wisconsin Technical College System
345 West Washington Avenue, Second Floor
Madison, Wisconsin 53703

Dear Mr. Clancy:

Thank you for your letter, dated March 15, 2006, which responds to our request for additional information pertaining to the use of outside legal counsel by the Wisconsin Technical College System. We appreciate your timely response.

In reviewing your letter, we are pleased to note the care with which the System has responded to the recommendations presented in the nonpartisan Legislative Audit Bureau's 2005 report on the use of outside legal counsel. We note that the System has amended its *Financial Accounting Manual* to ensure consistency with the audit recommendations. We also acknowledge the System's efforts to review and align the policies and procedures used by each technical college to procure outside legal counsel.

While we understand the rationale against system-wide procurement of outside legal counsel, we do expect the System to be diligent in exercising its oversight responsibilities by conducting regular reviews of district compliance with the policy changes recommended by the Legislative Audit Bureau and that are now prescribed by the System's *Financial Accounting Manual*. To that end, we ask that you submit a written report to the Committee by December 1, 2006, that:

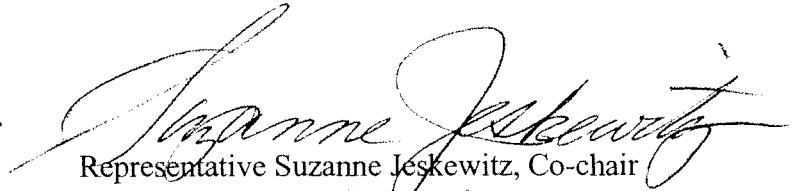
- summarizes the extent to which each technical college district has made use of outside legal counsel services during fiscal year (FY) 2004-05 and FY 2005-06;
- describes the procurement methods used by each district to secure outside legal counsel services; and
- confirms the compliance of each technical college with the newly enacted amendments to the System's *Financial Accounting Manual*.

Thank you for your cooperation. We believe that your December 2006 report will offer needed assurance that the recommended policy changes have been fully implemented by each technical college district. We look forward to receiving your report.

Sincerely,



Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

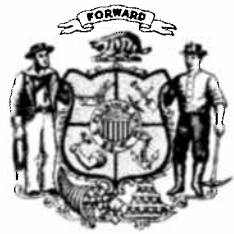


Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Janice Mueller
State Auditor



WISCONSIN STATE LEGISLATURE





March 15, 2006

Senator Carol Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, WI 53702

Dear Senator Roessler and Representative Jeskewitz:

This letter is in response to your November 2, 2005 correspondence asking for a written report following up on the Use of Outside Legal Counsel letter report by the Legislative Audit Bureau.

You specifically requested a report which:

- confirms that System policies have been modified to prohibit the inclusion of fringe benefits in contracts for services issued by any Wisconsin technical college;
- confirms actions taken by the State Board to require either a request for proposal process or a letter of engagement to be used by Wisconsin technical colleges to secure outside legal counsel; and
- confirms actions taken by the State Board to require Wisconsin technical colleges to prepare and submit annual cost analyses confirming the cost-effectiveness of any retainer agreement for outside legal counsel services.

I am pleased to report that at its September 28, 2005 meeting, the Wisconsin Technical College System Board unanimously approved the following resolution to address the Audit Bureau's recommendations:

That, upon the recommendation of the President of the Wisconsin Technical College System, the Wisconsin Technical College System Board expresses its appreciation to the Legislative Audit Bureau and agrees with and supports the recommendations included in the Report on Use of Outside Legal Counsel.

The Board endorses the System Office staff proposed actions to address the Audit Bureau's recommendations by establishing requirements and prohibitions of the districts in the Wisconsin Technical College Financial Accounting Manual which provides authoritative clarification of Wisconsin Administrative Code – Technical College Rules 6, 7, and 8.

As directed by the resolution, System Office staff amended the System's Financial Accounting Manual to establish policies and procedures consistent with the Audit Bureau's recommendations. This manual provides authoritative guidance on financial and procurement policies and procedures for the technical college districts. Specifically, section 6.1.3 of the Financial Accounting Manual was amended to:

Daniel Clancy, President

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e-mail: daniel.clancy@wtcssystem.org www.wtcssystem.org www.witechcolleges.com

1. require districts to establish written procedures to clarify the circumstances in which they will engage outside legal counsel;
2. require districts to either use a Request for Proposal process on a regular basis or use an annual letter of engagement which describes the types of service to be provided and the rates that will be charged for such services;
3. require an annual cost analysis be completed and submitted to the district board if a district chooses to use a retainer agreement. This cost analysis must provide sufficient detail to allow the district board to make a determination if it continues to be the most cost effective manner of obtaining outside legal counsel; and
4. prohibit districts from including fringe benefits in service contracts.

You have also asked us to confirm the submission of policies and procedures used by each technical college to procure the services of outside legal counsel. All 16 technical college districts have established policies regarding the use of outside legal counsel and submitted them to the System Office. We have reviewed these policies and asked for clarification and modification of districts' policies where necessary. All of the policies contain limitations on who may contact legal counsel and descriptions of the types of legal services anticipated. Accordingly, the policies appear adequate and consistent with the Audit Bureau's recommendations.

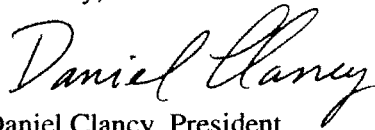
Finally, you inquired about the findings and recommendations resulting from our consideration of a system-wide procurement of outside legal counsel. We discussed this issue with the districts and found very little support for such a procurement. Most districts have a long-established relationship with their legal counsel, which is often critical in understanding the district's history and environment. For example, several districts noted that legal counsel was able to provide critical details of past collective bargaining developments that aided in the successful outcomes of arbitration cases. In addition, as noted in the Audit Bureau's letter report, each technical college district has distinct legal needs, and the issues facing each college can be significantly different. For example, some districts perform contract negotiation in-house, while other districts must contract for such services. Furthermore, the issues facing the larger, more urban colleges are not always the same as those facing the smaller, more rural colleges.

It is important to note that the System Office and the technical college districts are strong proponents of cooperative procurements for goods and services wherever possible. Accordingly, a purchasing consortium has been established to facilitate cost effective procurements by providing a central source of information about products and services, negotiating state-wide contracts with vendors, and providing centralized contract administration. The consortium has negotiated state-wide agreements with vendors including Microsoft, Oracle, and several other software and technology companies. The consortium continues to identify opportunities for cooperative procurement for its members. The districts have also established a mutual insurance company to assist in containing costs of property, general liability, worker compensation, and other ancillary insurance. Furthermore, technical colleges participate in other cooperative procurements with other educational and governmental organizations, including the State of Wisconsin, UW System, and the Midwestern Higher Education Compact.

Senator Carol Roessler and
Representative Suzanne Jeskewitz, Co-chairpersons
Page 3
March 15, 2006

I would again like to thank State Auditor Janice Mueller and her staff for providing the districts with practical recommendations for improving their operations. I would also like to thank you for your continued support of the Wisconsin Technical College System. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Clancy".

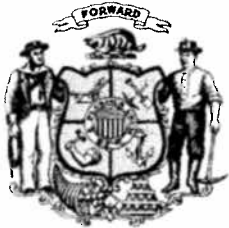
Daniel Clancy, President

DC:JEZ:kss

cc: Janice Mueller, State Auditor



WISCONSIN STATE LEGISLATURE




WISCONSIN
TECHNICAL COLLEGE
SYSTEM

December 1, 2006

Senator Carol Roessler and
 Representative Suzanne Jeskewitz, Co-chairpersons
 Joint Legislative Audit Committee
 State Capitol
 Madison, WI 53702

Dear Senator Roessler and Representative Jeskewitz:

This letter is in response to your March 28, 2006 correspondence asking for a written report following up on the Use of Outside Legal Counsel letter report by the Legislative Audit Bureau.

You specifically requested a report which:

- summarizes the extent to which each technical college district has made use of outside legal counsel services during fiscal year (FY) 2004-05 and FY 2005-06;
- describes the procurement methods used by each district to secure outside legal counsel services; and
- confirms the compliance of each technical college with the newly enacted amendments to the System's *Financial Accounting Manual*.

As shown in Table 1, total district expenditures for outside legal counsel declined from \$1.72 million in FY 2004-05 to \$1.44 million in FY 2005-06, or by 16.4 percent. As noted in the Audit Bureau's letter report, a number of factors influence district expenditures for outside legal counsel, including the number of employee grievances, collective bargaining negotiations, and the number of properties purchased or leased. Accordingly, legal counsel expenditures may vary significantly within a district from year-to-year, as well as among the districts in any given year. It is also important to note that total FY 2005-06 outside legal counsel expenditures are at the lowest level since FY 2000-01.

Table 1
Expenditures for Outside Legal Counsel

District	FY 2004-05	FY 2005-06
Blackhawk	\$ 37,199	\$ 110,859
Chippewa Valley	17,135	6,767
Fox Valley	103,975	85,452
Gateway	389,142	242,801
Lakeshore	44,972	66,875
Madison Area	141,502	115,386
Mid-State	79,961	14,922
Milwaukee Area	367,803	368,926
Moraine Park	81,983	42,213
Nicolet Area	19,002	60,435
Northcentral	186,660	144,317
Northeast Wisconsin	52,921	40,854
Southwest Wisconsin	35,974	18,085
Waukesha County	99,067	54,236
Western	24,155	9,807
Wisconsin Indianhead	42,679	59,718
TOTAL	\$1,724,130	\$1,441,653

Daniel Clancy, President

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As noted in my March 15, 2006 letter to you, the Wisconsin Technical College System Board unanimously approved a resolution directing System Office staff to amend our *Financial Accounting Manual* to establish policies and procedure consistent with the Audit Bureau's recommendations. I also reported that we had made the necessary amendments to the *Financial Accounting Manual*, which provides authoritative guidance on financial and procurement policies and procedures for the technical college districts. One of these amendments was a requirement that districts either use a Request for Proposal process or use an annual letter of engagement, which describes the types of service to be provided and the rates that will be charged for such services. As shown in Table 2, our follow-up review found that all 16 colleges were in compliance with this requirement and either used a Request for Proposal or had a letter of engagement with their outside legal counsel.

Table 2
Outside Legal Counsel Procurement Methods

District	Method
Blackhawk	Letter of Engagement
Chippewa Valley	Request for Proposal
Fox Valley	Letter of Engagement
Gateway	Request for Proposal
Lakeshore	Request for Proposal
Madison Area	Letter of Engagement
Mid-State	Letter of Engagement
Milwaukee Area	Request for Proposal
Moraine Park	Letter of Engagement
Nicolet Area	Letter of Engagement
Northcentral	Letter of Engagement
Northeast Wisconsin	Letter of Engagement
Southwest Wisconsin	Letter of Engagement
Waukesha County	Request for Proposal
Western	Request for Proposal
Wisconsin Indianhead	Letter of Engagement

In addition to the use of a Request for Proposal or a letter of engagement, the *Financial Accounting Manual* was amended to:

- require districts to establish written procedures to clarify the circumstances in which they will engage outside legal counsel;
- require an annual cost analysis be completed and submitted to the district board if a district chooses to use a retainer agreement; and
- prohibit districts from including fringe benefits in service contracts.

Representative Suzanne Jeskewitz, Co-chairpersons

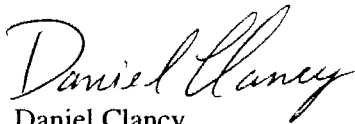
Page 3

December 1, 2006

I am pleased to report that we can confirm compliance of each technical college with the newly enacted amendments to the *Financial Accounting Manual*. Our follow-up review found that all 16 technical colleges established policies and procedures consistent with the Audit Bureau's recommendations, and clarify the circumstances in which they will engage outside legal counsel, including limitations on who may contact legal counsel and descriptions of the types of legal services anticipated. Furthermore, our review also found that all 16 colleges have a prohibition on including fringe benefits in any professional services contracts, and have assured us that no such arrangements exist. Finally, Milwaukee Area Technical College was the only college to use a retainer agreement with its outside legal counsel. We found they had completed the required cost analysis in February 2006, and intend to complete it annually for as long as they have a retainer agreement for legal counsel.

I would like to again thank you for your continued support of the Wisconsin Technical College System. If you have any further questions regarding the use of outside legal counsel, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Clancy".

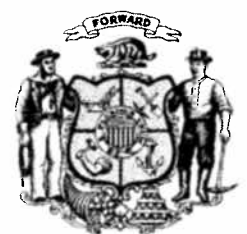
Daniel Clancy
President

DC:JEZ:kss

cc: Janice Mueller, State Auditor



WISCONSIN STATE LEGISLATURE





WISCONSIN STATE LEGISLATURE

Joint Legislative Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

December 7, 2006

Mr. Daniel Clancy, President
Wisconsin Technical College System
4622 University Avenue
Madison, Wisconsin 53707

Dear Mr. Clancy:

Thank you for your letter, dated December 1, 2006, which responds to our March 2006 request for follow-up information concerning the use of outside legal counsel by Wisconsin's technical colleges.

We are pleased to note a decline in expenditures for outside legal counsel of approximately 16 percent from fiscal year 2004-05 to fiscal year 2005-06. We also appreciate that, in keeping with the audit recommendations, the technical colleges have confirmed their use of either a request for proposal or letter of engagement to secure outside legal counsel services. Finally, the follow-up review conducted by your office provides necessary assurance that each technical college has achieved compliance with the *Financial Accounting Manual* and established policies consistent with the audit recommendations.

We appreciate your responsiveness to our request for additional information and thank you for your cooperation.

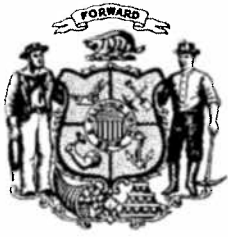
Sincerely,

Senator Carol Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc: Janice Mueller
State Auditor



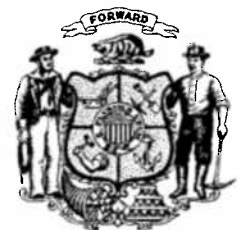


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Most large publications have been added to the Theoblad Legislative Library's collections. Search LRBCat (<http://lrbcats.wisconsin.gov/>) for availability.

For further assistance, contact the reference desk at (608) 266-0341 or lrb.reference@legis.wisconsin.gov.

State of Wisconsin - Legislative Reference Bureau
1 East Main Street, Suite 200
Madison, WI 53703





October 1995

OUTSIDE LEGAL COUNSEL AND SERVICES

Although the Department of Justice typically represents the State in litigated actions, state agencies may engage private attorneys, especially when the Department of Justice is unable to provide representation and for services such as consultation, legal advice, and teaching. The State spent an estimated \$3.18 million on outside legal counsel and services in fiscal year (FY) 1994-95, and an estimated \$16.7 million since FY 1990-91.

The State has two primary processes for engaging outside legal counsel and services. Under the first, the Governor retains a private attorney or law firm if the Department of Justice cannot represent a state agency or employe. From FY 1990-91 through FY 1994-95, the Office of the Governor entered into 109 contracts with private attorneys and firms. The State's second primary process for obtaining outside legal counsel is governed by s. 20.930, Wis. Stats., which requires the Governor's approval before any attorney may be hired directly by an agency. In addition to these primary processes, a few agencies have specific statutory authority to engage outside legal counsel independently.

Clear and Consistent Hiring Guidelines Are Needed

Agency practices for engaging private attorneys and law firms are not consistent, primarily because statutory requirements have not been approached or interpreted consistently. Further, some agencies without the statutory authority to do so have contracted independently for legal services, in part because of uncertainty about when they are to request representation from the Department of Justice, and when the Governor's approval is needed. For example, the University of Wisconsin-Madison, the Gaming Commission, and the Department of Health and Social Services entered into contracts with a value totaling \$312,961 without first requesting assistance from the Department of Justice or seeking the Governor's approval.

Systematic adherence to the State's processes for engaging outside legal counsel and services is important because the authority under which private attorneys are hired affects how they will be paid, as well as the State's ability to monitor costs. Because agencies need guidance and clear, consistent definitions of terms such as "legal services," we recommend that the Office of the Governor formally re-issue standardized policies and procedures for executive branch agencies to follow in the employment of private attorneys.

Expenditures Can Only Be Estimated

When the Governor's office contracts with private attorneys, it reviews bills for appropriateness before they are paid through a special appropriation in the Department of Justice. However, since FY 1990-91, nearly two-thirds of the State's estimated expenditures for outside legal counsel and

-over-

services have been paid directly by agencies, whose monitoring efforts vary considerably. Agency expenditures can only be estimated because they are often reported in broad budget categories that include a variety of outside services. The State could obtain more complete information on its legal costs by requiring all private attorney costs except those for University of Wisconsin teaching contracts and the legal defense of indigents to be paid through the Department of Justice appropriation, which could then be reimbursed by the agency when appropriate.

Additional Monitoring Is Needed

Government agencies and private corporations are finding that close review of legal bills can identify inappropriate expenses and reduce total costs. For example, some states and corporations negotiate reduced fees, require standard billing formats, specify allowable expenses, stipulate the use of attorney time, and require case budgets. While the Governor's office already negotiates reduced fees and works with the Department of Justice to monitor some bills, additional strategies could be adopted to aid the State in evaluating and controlling its expenditures for private attorneys. Therefore, we include a recommendation that the Department of Justice, in consultation with the Governor's office, develop guidelines for agency use.

A REVIEW OF
OUTSIDE LEGAL COUNSEL AND SERVICES

OCTOBER 1995

95-20

1995-96 Joint Legislative Audit Committee Members

Senate Members:

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Timothy Weeden
Margaret Farrow
Russell Decker
Joseph Wineke

Assembly Members:

Mary A. Lazich, Co-chairperson
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LEGISLATIVE AUDIT BUREAU

The Bureau is a nonpartisan legislative service agency responsible for conducting financial and program evaluation audits of state agencies. The Bureau's purpose is to provide assurance to the Legislature that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law, and that state agencies carry out the policies of the Legislature and the Governor. Audit Bureau reports typically contain reviews of financial transactions, analyses of agency performance or public policy issues, conclusions regarding the causes of problems found, and recommendations for improvement.

Reports are submitted to the Joint Legislative Audit Committee and made available to other committees of the Legislature and to the public. The Audit Committee may arrange public hearings on the issues identified in the report, and may introduce legislation in response to the audit recommendations. However, the findings, conclusions, and recommendations in the report are those of the Legislative Audit Bureau. For more information, contact the Bureau at 131 W. Wilson Street, Suite 402, Madison, WI 53703, (608) 266-2818.

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Editor of Publications - Jeanne Thieme

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State of Wisconsin \ LEGISLATIVE AUDIT BUREAU

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October 25, 1995

Senator Peggy A. Rosenzweig and
Representative Mary A. Lazich, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Rosenzweig and Representative Lazich:

We have completed a review of the State's use of outside legal counsel and services. Agencies engage private attorneys when the Office of the Attorney General is unable to provide representation and for other purposes, such as consultation, legal advice, and teaching. In fiscal year 1994-95, the State spent an estimated \$2.18 million on outside legal counsel and services.

Oversight of the use of private attorneys, as any other contracted service, is essential to ensure that the contracts are necessary and appropriate and that costs are monitored. Overall, it appears that most agencies have attempted to use private attorneys appropriately, and some costs and contracts are currently monitored by the Office of the Governor and the Department of Justice. However, nearly two-thirds of expenditures are paid directly from agency budgets, and there is significant variation among agencies in interpreting the statutes and procedures that govern the use of private attorneys and the reasons for which they should be engaged.

Based on our review of efforts in the private sector and other states, we have identified a number of steps the State can take to improve the consistency and quality of oversight to prevent potential problems. First, the Governor's office should provide more specific definitions and guidance to executive branch agencies on when and how private attorneys should be engaged. In addition, cost reporting for contracts should be improved. Finally, guidelines for developing standard contracts that stipulate allowable costs, rates, billing formats, and case monitoring should be developed.

We appreciate the courtesy and cooperation extended to us by staff at the Office of the Governor, the Department of Justice, and other agencies that we contacted during the course of the audit. Responses from the Office of the Governor and the Department of Justice are appendices III and IV.

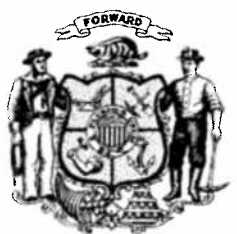
Respectfully submitted,

Dale Cattanaach
State Auditor

DC/DB/mo



WISCONSIN STATE LEGISLATURE



Matthews, Pam

From: Handrick, Diane
Sent: Tuesday, August 16, 2005 11:16 AM
To: Matthews, Pam

Attachments: Picture (Metafile); Picture (Metafile)

Officials question tech college costs

(Published Friday, August 5, 2005 01:18:54 PM CDT)

A d v e r t i s e m e n t

By Jay Webster
Capitol News Service

MADISON, Wis. -- Sen. Judy Robson has joined other legislators in calling for a more detailed investigation of spending by the Gateway Technical College Board.

Robson, D-Beloit, joined Sen. Bob Wirch, D-Pleasant Prairie, and Rep. John Lehman, D-Racine, in asking the Joint Legislative Audit Committee to direct the Legislative Audit Bureau to calculate Gateway's legal fees for the 2004-05 fiscal year.

The legislators also asked the committee to hold a public hearing on the audit bureau's findings.

The audit committee plans to have that hearing in September, said Sen. Carol Roessler, R-Oshkosh, committee co-chair.

The request came after taxpayers expressed concern about legal fees and the relationship between Gateway, BioCATT and CATI Inc., she said.

BioCATT and CATI are private, not-for-profit entities that promote enhanced computer and technology training and workforce development within the college. Gateway operates five campuses in Racine, Kenosha and Walworth counties.

An audit bureau report released Tuesday showed that Gateway retained the legal services of William Nickolai, paying him \$136,896 in 2003-04, although the audit indicated he typically logged fewer monthly hours than the 80 per month his retainer required.

Nickolai, Gateway's former vice president, also receives full dental, health and life insurance benefits until 2008, regardless of whether he meets requirements of the retainer agreement.

State Auditor Janice Mueller, author of the report, said more problems could arise if taxing authorities find Nickolai to be an employee rather than an independent contractor.

"Were he found by these taxing entities to be an employee and not an independent contractor, there may

be Social Security and tax implications for the district," the audit said.

The audit recommended that the Gateway Technical College Board immediately end the retainer agreement and find a more financially feasible option for legal counsel.

Bryan Albrecht, chief operating officer of Gateway, said the college's board will discuss at a meeting this month whether to terminate the deal. He said the college has already told Nikolai his contract will not be renewed when it expires in 2006.

Albrecht said the agreement made sense when Nikolai retired in 2002 "to provide consistency in the legal services to the college" as the school underwent an administrative reorganization that eliminated the legal counsel position. He said Nikolai's workload later diminished.

Albrecht acknowledged it was confusing why the contract included benefits that would be available to Nikolai as a retired employee of the college. But he said Gateway continued to consider Nikolai a contractor, not an employee. Robson said the figures revealed in the Audit Bureau's audit may be just "the tip of the iceberg."

Records indicate that Gateway spent \$779,448 in legal fees from July 2003 through May 2005.

The Kenosha News reported last Friday that, in addition to Nikolai, Gateway paid the Milwaukee-based law firm Michael Best and Friedrich \$445,319 from July 1, 2003, through May 31, 2005.

Working with an outside law firm as well as a former employee has unnecessarily raised costs and endangered critical programs at a time when the college has cut classes to reduce budget deficits, Robson said.

Robson made clear, however, that the request for an audit and public hearing is not an effort to destroy Gateway.

"As a former nursing teacher at Blackhawk Technical College, I know the mission and the value in providing technical training that helps businesses and fosters economic development," Robson said.

But a few "bad apples" in the Gateway administration are jeopardizing that mission, Robson said.

"We are simply asking for accountability to the taxpayers," she said.

Wirch agreed with Robson's assessment.

"There are too many questions about expenditures at Gateway that haven't been answered," said Wirch, whose Senate district includes Gateway. "I hate to see students and teachers dealing with fewer classes and services."

Updated data and information will likely be presented at the audit committee's public hearing, Roessler said. The venue is also the appropriate place for representatives from the college's board to respond to the audit findings, she said.

Roessler said she and other committee members plan to support the audit bureau's recommendations.

Inquiries into questionable practices at Gateway could extend beyond the audit and public hearing, however. Further inquiries could involve the state Justice Department.

Robson, Wirch and Lehman, in a July 14 letter to Attorney General's Office, requested an investigation into the relationships between Gateway Technical College, BioCATT and CATI.

The requests ask the office to look into possible misuse of taxpayer funds to create these private entities, possible violations of the state's open meetings law, the possible use of public dollars to subsidize the companies, and potential conflicts of interest involving Gateway staffers who are also involved with BioCATT and/or CATI.

Kelly Kennedy, a spokesman for the attorney general, said the request "is still under review."

A discovery of illegal activity by Gateway's administration would be unfortunate, Wirch said.

"If there is anything illegal happening-and I certainly hope there isn't-it would be unfortunate because Gateway is a good school," he said.

Material from The Associated Press was used in this story.

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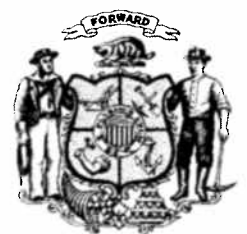
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WISCONSIN STATE LEGISLATURE



Nice work if you can get it -- Gateway pays retired vice president \$10,000 a month for 80 hours of work

By Janine Anderson

With concerns about how Gateway Technical College is handling its money, three state legislators have asked for a public hearing on a recently completed audit.

The Legislative Audit Bureau released an audit of the amount state technical colleges spend on outside legal counsel on Tuesday, and later that day three area legislators - John Lehman, D-Racine, Bob Wirch, D-Kenosha and Judith B. Robson, D-Beloit) - asked for a hearing on the issue.

Since the 2001-02 school year, Gateway has had the second-highest expense for legal fees of the state's 16 technical colleges. Prior to that, the college was eighth. In that year, the college saw William P. Nickolai, its internal legal counsel and a vice president, retire. Before he left, the college negotiated a retainer agreement with him. The agreement paid him \$10,000 a month for a minimum of 80 hours of service plus nearly \$17,000 in insurance benefits annually.

Nickolai did not return a phone call seeking comment.

"From my point of view, this report is coincidental or serendipitous to what we have been doing with regard to Gateway," Lehman said. "Since the spring we have expressed concerns about Gateway. We are not getting what we consider to be straight answers. There are a lot of questions, what I consider to be public policy questions, related to

Gateway."

Lehman's initial concern was about duplication of services between Gateway's main campus and its advanced technology centers. The audit released Tuesday raised more questions about how Gateway is handling its resources, he said.

"From the taxpayer's point of view, I don't think it's clear what's going on," Lehman said. "That's what (Gateway president) Sam Borden owes everybody. Clear answers to what's going on, to why the legal fees are so darn high."

If Nickolai had worked 80 hours each month he was under contract, he would have made \$125 an hour. Some months he worked more than 80 hours and some he worked less. Had Gateway paid his hourly rate alone, according to the audit, the college would have saved more than \$25,500.

Bryan Albrecht, Gateway's chief operations and academic officer, said the college will not renew Nickolai's contract when it expires in January 2006, though he said the decision was not prompted by the audit. Gateway's Board of Directors will discuss the issue at its August meeting, he said. "When he worked for us there were internal (legal) services, with personnel, staff and bargaining issues," Albrecht said. "Now, we also have several other projects, federal projects and litigation issues, that take a specialized type of legal service. We had set the contract (with Nickolai) up to last for three years until it ended in 2006. The intent was to transition into a new type of support service for the college."

Albrecht said when Nickolai took early retirement, he was not given any other pension or benefits. The retainer agreement was the only compensation he was receiving from the college, providing the \$120,000 in monetary compensation and the insurance benefits for him and his spouse until he reached age 65, regardless of whether his service to the college continued.

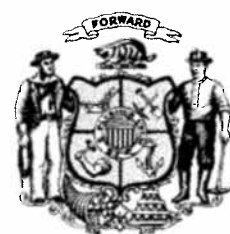
- The audit report recommends an immediate end to Nickolai's contract. "Because it was negotiated while he was still an employee we have serious concerns about the propriety of the agreement," said State Auditor Janice Mueller. She questioned whether the contract with Nickolai is the most cost-effective way for Gateway to meet its legal needs. Gateway was the only technical college that had an agreement like this with a former employee, Mueller said.

Albrecht said Gateway directors will be looking at this issue and try to set a future policy.

"The board will be discussing that and establishing a new practice on how we develop contracts in the future," he said.



WISCONSIN STATE LEGISLATURE



Legislators looking for answers about Gateway's relations with CATI, BioCATT

By Dustin Block

RACINE - State Rep. John Lehman said Wednesday that more needed to be learned about the relationship between Gateway Technical College and two non-profit organizations in Kenosha and Racine counties.

"We still don't have the light of day on this," said Lehman, responding to news that the state attorney general's office is investigating Gateway.

Lehman, D-Racine, was one of three state legislators who asked for an audit of Gateway after concerns were raised about how the technical college was using programs at BioCATT in Kenosha and CATI in Sturtevant.

For example, Lehman said, programs that were offered on Gateway's main campus appeared to be duplicated at BioCATT, even as the main program was financially strapped for cash.

Lehman said he and state senators Bob Wirth, D-Pleasant Prairie, and Judy Robson, D-Beloit, were concerned that decisions were being made through the nonprofit organizations without the same public oversight that Gateway is required to follow.

"I want to make sure this is being run in an above-the-board manner," Lehman said.

BioCATT, or the Center for Bioscience and the Integration of Computer and Telecommunications Technology, was formed in 2003 as a public/private partnership designed to provide jobs to the region.

CATI, or the Center for Advanced Technology and Innovation, opened in Sturtevant in 2003 to develop new products, businesses and services. It is also a public/private partnership with Gateway.

Lehman said he wanted to make sure BioCATT and CATI were following proper hiring procedures and awarding contracts in a fair way.

He added that last week's finding by the Legislative Audit Bureau that Gateway paid a lawyer \$120,000 for 80 hours of work per month - far more than most other technical colleges across the state - was "not encouraging."

"We're anxious to get at the details of this," Lehman said about Gateway's relationship with the nonprofit organizations.

In response to the Attorney General's office getting involved, Lehman said: "It sounds more serious when you're talking about possible criminal activity."