

Date: January 17, 2017



## **CLERK OF THE CIRCUIT COURT – AGENDA ITEM Marion County Commission**

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**SUBJECT: Present Report No. 2016-11 Regarding EDFIG Compliance Review of Rasmussen College, Inc.**

**INITIATOR: Sachiko H. Leon**

**DEPARTMENT: Clerk of Court**

**DESCRIPTION/BACKGROUND:** Rasmussen submitted the final report. Internal Audit reviewed for grant compliance and concluded Rasmussen was not in compliance with applicable sections of the grant agreement. Rasmussen has since withdrawn from participation in the EDFIG program. Internal Audit is recommending repayment of \$36,000 from Rasmussen.

**BUDGET IMPACT: None**

**RECOMMENDED ACTION: None, for informational purposes only**



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REPORT NO. 2016-11

**EDFIG COMPLIANCE REVIEW: RASMUSSEN COLLEGE, INC.**

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*Presented To*  
The Honorable Board of County Commissioners  
Mounir Bouyounes, County Administrator

December 23, 2016

*Issued By*  
David R. Ellspermann, Clerk of the Circuit Court and Comptroller   
Sachiko H. León, Internal Auditor



*Engagement Team*  
Heather Lobsiger, Auditor-in-Charge  
Sachiko H. León, CIA, CISA, Internal Auditor

## Executive Summary

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Internal Audit performed a compliance review of performance measures for Rasmussen College, Inc. (Grantee) required final report and an overall final audit pursuant to the Economic Development Financial Incentive Grant (EDFIG) Agreement.

**Objective 1:** Determine if Grantee met the grant requirements of maintaining 74 Full-Time Equivalents (FTE) and 40 Part-Time Equivalents (PTE) with an annual average payroll of \$3,230,913 through January 2015.

**Our opinion is** that Grantee did not meet the grant requirements for employee performance measures for the reporting period and, therefore, is not eligible to receive the remainder of the grant funding. Grantee exceeded the requirement for annual average payroll, but the Agreement required that both criteria be met.

The County Attorney's Office advised the County Administration to terminate the agreement without any further payment based on a stipulation of the amended agreement. Grantee subsequently withdrew from participation of the EDFIG program.

**Objective 2:** Determine if Grantee had met the accelerated criteria when the accelerated payment of \$54,000 was received in September 2012 by investing \$6,395,400 in capital improvements and employing additional 22 FTE in job creation as stipulated in the accelerated terms in the amended agreement.

Internal Audit did not have an opportunity to review if Grantee had met the accelerated terms and was eligible to receive the accelerated payment of \$54,000 prior to release of the payment in September 2012. We therefore included it in the scope and reviewed the eligibility.

**Our opinion is** that the County is due a refund of at least \$36,000 from the Grantee (See Exhibit A for details).

We would like to thank the representatives of the County Administration and Rasmussen College, Inc. for their cooperation during our review.

## **BACKGROUND**

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Marion County (County) awarded to Rasmussen College, Inc. (Grantee) on January 19, 2010, an Economic Development Financial Incentive Grant (EDFIG) in the total amount of \$90,000. This amount was to be paid over a 10 year period in equal installments of \$9,000. On September 4, 2012, County approved an amendment to add Section 3.8 to the original agreement.

The original agreement between the County and Grantee required:

- Construction of a new campus on SR 200
- Provide capital improvements at the new campus of at least \$5,814,000
- Provide new capital equipment at the new campus of at least \$1,100,000
- Submit annual reports to the County in compliance with grant requirements
- Employment requirements
  - Maintain existing 54 Full-Time equivalent (FTE) employees and 40 Part-Time equivalent (PTE) with average payroll of \$2,170,193
  - Reach and maintain 74 FTE and 40 PTE for the remainder of the grant period with an average annual payroll of \$3,230,913 by December 23, 2012

Internal Audit released Audit Report No. 2011-03 on April 18, 2011, for the first required annual report by Grantee and recommended that the County issue the grant compliance payment of \$9,000 to Grantee. The check was released, from the Marion County Clerk of the Circuit Court and Comptroller's Finance department, to the County on September 30, 2011. The check was never cashed and eventually voided on June 2, 2012. Grantee submitted an affidavit stating that the check had been lost or destroyed.

In the following year, Internal Audit released Audit Report No. 2012-04 on August 23, 2012, for the second required annual report by Grantee and recommended the grant compliance payment of \$9,000 be paid to Grantee according to the original Agreement terms. The payment request, from the County, was not made to the Finance department.

On September 4, 2012, the amendment for the addition of section 3.8 was approved. Section 3.8 allowed Grantee to accelerate the Agreement terms from 10 years to five years, to conclude in January 2015, and allowed Grantee to receive \$54,000 (60% of the total amount) if Grantee notified County, in writing, that Grantee had exceeded the required performance measures by 10% within the first two years from the original Agreement execution date.

The accelerated performance measurers were:

- New capital investments increased from \$5,814,000 (original) to \$6,395,400 (original x 110%)
- Job creation requirements increased from 20 FTE (original) to 22 FTE (original x 110%)

The County Administration approved payment for \$54,000 on September 11, 2012. Internal Audit was not provided an opportunity to verify the payment of \$54,000; thus, we did not perform a compliance review of Section 3.8 prior to the payment being released. The remainder of \$36,000

(40% of the total amount) was to be paid upon submission and review of the final report required by the amended terms. Grantee was required to maintain 74 FTE and 40 PTE with an annual average payroll of \$3,230,913 for the remainder of the agreement. Final report was due on January 19, 2015.

## SCOPE, OUR APPROACH, AND RESULTS

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### *Objective 1: Did Grantee meet the grant requirements of maintaining 74 FTE and 40 PTE with an annual average payroll of \$3,230,913 through January 2015?*

The final report for the reporting year 2014 was seven months delinquent by Grantee, and did not include sufficient documentation to conduct the compliance review. Internal audit contacted Grantee to obtain required documentation to conduct our review. We received auditable documentation eight months after the due date.

In order to assess Grantee's performance and compliance of the reporting year 2014, we consolidated FTE and PTE of the grant requirements to make them comparable to the required quarterly Reemployment (RT-6) reports. We used the summary page of the RT-6 reports for 2014 and corresponding Multiple Work Site Reports to reach the final conclusion. The RT-6 reports included the number of employees by month and the total gross wages for the quarter from various locations throughout the state of Florida. The Multiple Work Site Reports identified total employees by month and total gross wages by quarter for each location. We assessed reliability of the Multiple Work Site Report based on a comparison to the quarterly RT-6 reports for 2014 of total employees and salaries. We determined the Multiple Work Site Report to be reliable to evaluate grant compliance specific to the Ocala location for the analysis. Internal Audit performed and analyzed compliance to the Grant Agreement based on the combined total of 114 (74 FTE and 40 PTE) annual average employees and total payroll for the calendar year 2014.

**Our opinion is** that Grantee did not meet the grant requirements for employee performance measures for the reporting year 2014. We determined 99 to be the total combined FTE and PTE, which is 15 less than the required 114 combined FTE and PTE. Grantee exceeded the requirement for annual average payroll, but the Agreement required that both criteria be met. A table below summarizes our analysis.

<b>Table 1</b>		
<b>Criteria</b>	<b>FTE and PTE</b>	<b>Average Annual Payroll</b>
Final Report Requirements	114	\$3,230,913
Actual Reported	99	\$4,341,575
<b>Short/Exceeded</b>	<b>-15</b>	<b>\$1,110,662</b>

The amendment to the Grant Agreement was silent in regards to a formula to determine a claw back amount if Grantee failed to comply with the accelerated terms as defined in Section 3.8;

however, Section 7 of the original agreement states:

*“The County shall have the right to rescind the Grant and to take all appropriate action, including litigation, to recover and amounts granted to applicant for its failure to abide by the terms of this Agreement...”*

Internal Audit informed the County Administration of Grantee’s non-compliance status. The County Attorney’s Office advised the County Administration that the Agreement should be terminated due to a default with no additional payment to Grantee.

*Update: After Internal Audit notified Grantee of the non-compliance status, Grantee informed the County its wishes to withdraw participation from EDFIG Program. The County accepted the letter (Exhibit A) and issued Resolution 16-R-119 (Exhibit B) to terminate the Agreement and repeal Resolution 09-R-485 which created the Agreement.*

***Objective 2: Was Grantee eligible when it received an accelerated payment of \$54,000 in September 2012 by investing \$6,395,400 in the capital improvement category and employing additional 22 FTE in the job creation category as stipulated in the accelerated terms in the amended Agreement?***

To determine if the objective was met, we reviewed the governing ordinance, the amended agreement obtained and reviewed supporting documentation for the accelerated payment, and documentation maintained by the County. We also interviewed key personnel including the former County personnel.

Section 3.8 of the amended Agreement reads as follows:

*“In the event Rasmussen College, Inc. accelerates the College’s performance measures and exceeds, by 10-percent or more, the proposed new capital investments and job creation requirements.... the College shall have the right to request an acceleration of the County’s payment of the EDFIG grant. However, this accomplishment must be achieved and documented within the first two (2) years from the date of the execution of this Agreement by both parties. This request shall be made by the College in writing to the County along with supporting documentation. The County shall verify the supporting documentation and measure performance against the requirements outlined in Section of this Agreement. If confirmed, the County will issue an accelerated payment of EDFIG funding equal to 60-percent of the grant award, minus any payments issued to the College to date.”*

We did not find documentation by Grantee requesting the accelerated payment along with documented achievement of the accelerated terms. We also did not find verification of compliance

to the accelerated terms by the County though we found documentation which suggested “the second annual review by the County” had been performed.

We located a document prepared by Grantee asserting the total expenditure of \$6,896,847 in capital improvements from the previous audit documentation; however, we could not locate any documentation confirming Grantee had created 22 FTE after the second annual Grantee report was submitted. The second annual report by Grantee was for the performance of calendar year 2011 asserting 62 FTE, which was a creation of eight jobs over the baseline of 54 FTE.

Table 2		
Criteria	Additional FTE	Capital Improvements
Accelerated Payment Requirements	22	\$6,395,400
Actual Reported	8	\$6,896,847
<b>Short/Exceeded</b>	<b>-14</b>	<b>\$501,447</b>

**It is our opinion** that the County is due a refund of at least \$36,000 from Grantee if documentation substantiating the County’s second annual review could not be found. We arrived at the minimum amount because Internal Audit had previously recommended two \$9,000 payments in Report No. 2011-03 and Report No. 2012-04 for Grantee’s compliance with the original terms. These payments were never paid (the first \$9,000 check had been voided by Finance for not cashing timely, and the second \$9,000 payment request was never made). We, therefore, subtracted the recommended total of \$18,000 from the accelerated payment of \$54,000 made to Grantee. See Exhibit A for the grant summary.

***Update:** The County Administration requested Grantee to submit documentation which would substantiate the Grantee’s eligibility for the accelerated payment after we shared the finding. The documentation subsequently submitted by Grantee did not demonstrate creation of 22 FTE over the baseline of 54 FTE within the stipulated period as written in the amended Agreement. We, therefore, recommend that the County seek a refund of \$36,000 from Grantee.*

**Management Response:** We concur with reservations.

We concur with reservations in that the County seek a refund of \$36,000. It is our opinion that further consideration shall be given to the fact that Grantee did exceed the requirement for annual average payroll, as noted in the audit report and also exceeded the required total expenditure in the capital improvement category which may be evident should Grantee provide the supported documentation.

**Target Implementation Date:** The County Administration did not provide the target implementation date.

**Responsible Party for Implementation:** Assistant County Administrator-Public Services

***Exhibit A*****GRANT REVIEW SUMMARY**

Reference	Minimum Requirements Met?	IA Report No.	Recommended Payment by IA	Amount Paid to Grantee	Payment Date	Disposition
Grantee 1 <sup>st</sup> Annual Report	Yes	2011-03	\$9,000	-	9/30/2011	Void
Grantee 2nd Annual Report	Yes	2012-04	\$9,000	-	-	Payment was never issued
Accelerated Payment	Not substantiated	-	-	\$54,000	9/11/2012	Received by Grantee
Final Accelerated Report	No	2016-10	-	-	-	Grant closed on 4/5/2016
Possible Refund Due				\$36,000		

## *Exhibit B*



February 26, 2016

VIA MAIL

Mounir Bouyounes, P.E., County Administrator  
Marion County Administration  
601 S.E. 25<sup>th</sup> Avenue  
Ocala, FL 34471

With a copy to:

Jeannie Rickman  
Assistant County Administrator of Public Services  
Marion County Administration  
601 S.E. 25<sup>th</sup> Avenue  
Ocala, FL 34471

**Re: Withdrawal from EDFIG Program**

Dear Mr. Bouyounes:

Since 2010, Rasmussen College has participated in the Economic Development Financial Incentive Grant ("EDFIG") program offered through Marion County. Rasmussen College built a new campus in Ocala, along with capital improvements, and continues to employ a significant number of staff at the campus. At this time, Rasmussen College is withdrawing its participation in the EDFIG program. While Rasmussen College will continue to operate its Ocala campus, we will no longer accept any further funds from EDFIG.

On behalf of Rasmussen College, thank you for the opportunities we have received through participation in this program. If you have any questions or need additional information, please contact me via phone at (352) 291-8502 or via email at [pete.beasley@rasmussen.edu](mailto:pete.beasley@rasmussen.edu).

Sincerely,

Pete Beasley  
Campus Director

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OCALA CAMPUS: 4755 SW 46th Ct, Ocala, FL 34474

## Exhibit C

### RESOLUTION NO. 16-R- 119

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, PROVIDING FOR TERMINATION OF THE ECONOMIC DEVELOPMENT FINANCIAL INCENTIVE GRANT AGREEMENT WITH RASMUSSEN COLLEGE; PROVIDING FOR REPEAL OF RESOLUTION NO. 09-R-485 AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, a letter has been received by the County in which Rasmussen College wishes to withdraw its participation in the EDFIG Program; and

**WHEREAS**, while Rasmussen College will continue to operate their newly built Ocala campus and employ a significant number of staff, it waives any entitlement to any remainder of the EDFIG award.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Marion County, Florida, that:

**SECTION 1. ACCEPANCE.** Marion County hereby accepts Rasmussen College's withdrawal from the EDFIG Program and waiver of any remainder of the grant award.

**SECTION 2. TERMINATION.** The EDFIG Agreement between Marion County and Rasmussen College dated January 19, 2010, as amended on September 4, 2012, is hereby terminated.

**SECTION 3. REPEAL.** Resolution No, 09-R-485 is hereby repealed.

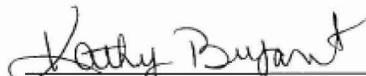
**SECTION 4. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** in regular session this 5th day of April, 2016.

ATTEST:

  
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DAVID R. ELLSPERMANN, CLERK

BOARD OF COUNTY COMMISSIONERS  
MARION COUNTY, FLORIDA

  
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KATHY BRYANT, CHAIRMAN

## *Exhibit D*

### **Report Distribution List**

<b>Name</b>	<b>Title</b>
Carl Zalak	Chairman of the Board of County Commissioners
Kathy Bryant	Vice Chair of the Board of County Commissioners
David Moore	District 1 Commissioner
Jeff Gold	District 3 Commissioner
Michelle Stone	District 5 Commissioner
Mounir Bouyounes	County Administrator
Guy Minter	County Attorney
Jeannie Rickman	Assistant County Administrator-Public Services
Pete Beasly	Campus Director of Rasmussen College, Inc.