

# FLORIDA STATE UNIVERSITY

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## Operational Audit



## BOARD OF TRUSTEES AND PRESIDENT

Members of the Board of Trustees and President who served during the 2012-13 fiscal year are listed below.

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Susie Busch-Transou to 6-12-13, Vice Chair (1)  
Kathryn Ballard from 6-13-13  
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Rueben Stokes to 3-26-13 (2)  
Dr. Gary Tyson from 4-24-13 (4)

Dr. Eric J. Barron, President

- Notes: (1) The vice chair position remained vacant from June 13, 2013, through June 30, 2013.  
(2) Student body president.  
(3) Board member served beyond the end of term, January 6, 2011, until reappointed June 13, 2013.  
(4) Faculty senate chair.

The audit team leader was Kathy Stich, CPA, and the audit was supervised by Karen L. Revell, CPA. Please address inquiries regarding this report to James R. Stultz, CPA, Audit Manager, by e-mail at [jimstultz@aud.state.fl.us](mailto:jimstultz@aud.state.fl.us) or by telephone at (850) 412-2869.

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# FLORIDA STATE UNIVERSITY

## EXECUTIVE SUMMARY

Our operational audit disclosed the following:

### STUDENT TUITION AND FEES

**Finding No. 1:** Our tests disclosed payments totaling \$193,652 to six employees from tuition differential fees for which University records did not evidence that these employees provided a benefit to undergraduate programs, contrary to Section 1009.24(16), Florida Statutes.

### PERSONNEL AND PAYROLL

**Finding No. 2:** Our tests disclosed \$85,038 of severance payments in excess of that allowed by Section 215.425, Florida Statutes.

### PROCUREMENT OF GOODS AND SERVICES

**Finding No. 3:** The University needed to enhance controls over payments for contractual services.

### INFORMATION TECHNOLOGY

**Finding No. 4:** University information technology security controls related to user authentication needed improvement.

## BACKGROUND

The Florida State University (University) is part of the State university system of public universities, which is under the general direction and control of the Florida Board of Governors. The University is directly governed by a Board of Trustees (Trustees) consisting of 13 members. The Governor appoints 6 citizen members and the Board of Governors appoints 5 citizen members. These members are confirmed by the Florida Senate and serve staggered terms of five years. The faculty senate chair and student body president also are members.

The Board of Governors establishes the powers and duties of the Trustees. The Trustees are responsible for setting University policies, which provide governance in accordance with State law and Board of Governors' Regulations. The University President is selected by the Trustees and confirmed by the Board of Governors. The University President serves as the executive officer and the corporate secretary of the Trustees and is responsible for administering the policies prescribed by the Trustees for the University.

The results of our financial audit of the University for the fiscal year ended June 30, 2013, will be presented in a separate report. In addition, the Federal awards administered by the University are included within the scope of our Statewide audit of Federal awards administered by the State of Florida and the results of that audit, for the fiscal year ended June 30, 2013, will be presented in a separate report.

## FINDINGS AND RECOMMENDATIONS

### Student Tuition and Fees

#### Finding No. 1: Tuition Differential Fee

Section 1009.24(16), Florida Statutes, states in part that each university board of trustees may establish a student tuition differential fee for undergraduate courses, which shall be used to promote improvements in the quality of undergraduate education and provide financial aid to undergraduate students who exhibit financial need. Section 1009.24(16)(a), Florida Statutes, provides that 70 percent of revenues from tuition differential fees must be expended for certain specified purposes other than for student financial aid, which include increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, and reducing the percentage of students who graduate with excess hours. This Section also provides that the tuition differential fees for undergraduate education may not be used to pay the salaries of graduate teaching assistants. This Section further provides that except as otherwise provided in Section 1009.24(16)(a), Florida Statutes, the remaining 30 percent of revenue from tuition differential fees, or the equivalent amount of revenue from private sources, must be expended to provide financial aid to undergraduate students who exhibit financial need.

The University established a separate fund and account to record tuition differential fee transactions, and recorded \$30,035,814 in collections and \$28,192,873 in expenses from the tuition differential fees for the 2012-13 fiscal year. The expenses were comprised of \$21,401,283 for specific purposes other than student financial aid and \$6,791,590 for student financial aid. Of the amount spent for other than financial aid, \$17,014,406 was spent on salaries for 418 employees.

Our tests of 14 employees paid \$270,544 in salaries from tuition differential fees disclosed \$193,652 of questioned expenditures of tuition differential fees, as follows:

- Fees totaling \$116,989 were spent to fund approximately 89 percent of one professor's salary to teach courses during the Fall 2012 and Spring 2013 terms. However, University records indicated that courses taught by the professor during those terms relating to undergraduate education only represented approximately 6 percent of total credit hours the professor taught during the 2012-13 fiscal year. In response to our inquiry, University personnel indicated that much of the professor's work with undergraduate students related to a new effort by the Office of Undergraduate Research to increase and encourage research work by undergraduate students, and did not involve teaching courses to undergraduate students. However, without documentation supporting the professor's time spent enhancing undergraduate education, the University's records did not evidence the basis for charging 89 percent of the professor's salary to tuition differential fees.
- Fees totaling \$74,704 were spent to fund approximately 98 percent of one professor's salary during the Fall 2012 and Spring 2013 terms. University records indicated that the professor was on sabbatical leave during the Fall 2012 term and on parental leave during the Spring 2013 term. In response to our inquiry, University personnel indicated that the sabbatical leave related to a faculty member staying current in his field that directly benefits students, the University, and the faculty member; and that parental leave is part of an employee's benefits and could be paid as a part of their salaries. University personnel also provided documentation of the work performed by the professor during the sabbatical leave; however, it wasn't apparent from the documentation provided that the professor performed activities related to enhancing undergraduate education. Further, given that 42 percent of total credit hours taught by the professor during the 2011-12 fiscal year related to undergraduate education and 25 percent of expected credit hours to be taught by the professor during the 2013-14 fiscal year related to undergraduate education, it was not apparent

how the University determined that 98 percent of the professor's payments for leave taken during the 2012-13 fiscal year was related to undergraduate education. As such, University records did not evidence the basis for charging 98 percent of the professor's salary to tuition differential fees.

- Fees totaling \$1,959 were spent on salaries for four graduate assistants teaching undergraduate courses, contrary to Section 1009.24(16)(a), Florida Statutes. In response to our inquiry, University personnel agreed that these graduate teaching assistants should not have been paid from tuition differential fees and these costs were restored to the tuition differential fee fund. A similar finding was noted in our report No. 2012-075.

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**Recommendation:** The University should enhance its procedures to ensure that tuition differential fees are expended in accordance with Section 1009.24(16), Florida Statutes. In addition, the University should document of record how the payments of the professors salaries are consistent with the specified purposes of Section 1009.24(16), Florida Statutes, or restore the remaining \$191,693 of questioned costs to the tuition differential fee fund.

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<b>Personnel and Payroll</b>
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**Finding No. 2: Severance Pay**

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Section 215.425(4)(a), Florida Statutes, provides that on or after July 1, 2011, a unit of government that enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, that contains a provision for severance pay must include a provision in the contract or employment agreement that precludes severance pay from exceeding 20 weeks of compensation. Section 215.425(4)(b), Florida Statutes, provides that any severance payment made on or after July 1, 2011, for the settlement of an employment dispute, other than that provided for in a contract or employment agreement, may not exceed six weeks of compensation. Section 1001.706(6)(d), Florida Statutes (2011), provided that universities may not enter into an employment agreement that authorized severance pay in excess of one year's annual salary.

We noted six employees who received a total of \$238,747 in severance payments during the 2011-12 and 2012-13 fiscal years, all of which entered into employment agreements after July 1, 2011. Our review of these severance payments disclosed the following:

- Four administrative and professional (A&P) employees were paid a total of \$123,505 for six months (26 weeks) severance pay during the 2011-12 fiscal year as part of the employee contract buyout provision. The contract buyout provision for these employees allowed for an amount equal to the lesser of: (1) the salary for the remainder of the cancellation period (at least six months for employees who have more than five years of University A&P service) or (2) salary for the remainder of the appointment period. Payments to these four employees exceeded the 20 weeks of compensation limitation prescribed by Section 215.425(4)(a), Florida Statutes. As a result, \$28,865 was paid to these employees in excess of the amount authorized by law.
- One A&P employee was paid \$68,142 for 25 weeks of severance pay during the 2012-13 fiscal year as part of the employee contract buyout provision. This payment was in agreement with the employee contract buyout provision; however, it exceeded the 20 weeks of compensation limitation prescribed by Section 215.425(4)(a), Florida Statutes. As a result, \$14,487 was paid to the employee in excess of the amount authorized by law.
- The remaining employee, a faculty member, was paid \$47,100 during the 2011-12 fiscal year to settle an employment dispute, although there was no corresponding provision for severance pay in the employment agreement. The payment was for 52 weeks, pursuant to the settlement agreement, which exceeded the six weeks of compensation limitation contained in Section 215.425(4)(b), Florida Statutes. As a result, \$41,686 was paid to this employee in excess of the amount authorized by law.

In response to our inquiry, University personnel indicated that the severance pay limitations contained in Section 215.425, Florida Statutes did not apply to the University for the 2011-12 fiscal year based, in part, on the following:

- Chapter 2012-134, Laws of Florida, effective July 1, 2012, amended Section 1001.706, Florida Statutes, to require universities to comply with the severance pay limitations contained in Section 215.425, Florida Statutes. University personnel indicated that when the Legislature has required universities to comply with statutes of general applicability concerning public employees, it has done so by explicitly listing the general statute within Section 1001.706(6), Florida Statutes. They further indicated that prior to the enactment of Chapter 2012-134, Laws of Florida, the Legislature had not explicitly applied Section 215.425, Florida Statutes, to universities.
- An advisory memorandum issued September 26, 2011, by the Board of Governors’ legal counsel, opined that an irreconcilable conflict existed between Sections 1001.706(6)(d) and 215.425, Florida Statutes, and the principles of statutory construction indicate that, prior to the enactment of Chapter 2012-134, Laws of Florida, specifically making Section 215.425, Florida Statutes, applicable to universities, the provisions of Section 1001.706(6)(d), Florida Statutes, controlled severance payments made by universities. Therefore, University personnel indicated that the limitations on compensation contained in Section 215.425, Florida Statutes, did not apply to the University prior to July 1, 2012.

According to University personnel, on March 18, 2013, the University revised all A&P employment agreements to include a maximum buyout period of up to 20 weeks based on years of service for University A&P contracts.

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**Recommendation:** The University should continue its efforts to comply with the severance pay limitations provided by Section 215.425, Florida Statutes.

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**Follow-up to Management’s Response**

*The University reiterated in its response that Section 1001.706(6)(d), Florida Statutes (2011), controlled Section 215.425, Florida Statutes, and the University complied with applicable law for these payments. However, Section 215.425, Florida Statutes, applies to all units of government, and the 2012 amendment to Section 1001.706(6)(d), Florida Statutes, merely clarified existing law. Accordingly, we remain of the opinion that the payments in question were not made in accordance with existing law. In determining its actions to resolve this audit finding, the University should seek a legal opinion from the Florida Attorney General regarding its interpretation of the existing and controlling law.*

<b>Procurement of Goods and Services</b>
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**Finding No. 3: Contractual Services**

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As a matter of good business practice, contractual arrangements should be evidenced by written contracts embodying all provisions and conditions of the procurement of such services. The use of a well written, complete, and properly executed written contract protects the interests of both parties, defines the services to be performed, and provides a basis for payment. In addition, the University is responsible for establishing controls to ensure that payments to contractors are for services actually performed and in accordance with agreed-upon terms.

The University paid \$59.7 million for information technology, legal, marketing and advertising, and other external professional contractual services during the 2012-13 fiscal year. Our review of eight payments for contractual services, totaling \$1,643,900, disclosed that University procedures were generally adequate to monitor expenditures. However, our review disclosed that monitoring of payments for legal services could be improved, as discussed below.

The University made four payments totaling \$126,904 to a firm for legal services during the period July 2012 through January 2013. We noted that one of the payments for \$54,502 was for the services performed by five attorneys and staff members at individual hourly rates of pay during September 2012. The pay rates listed on the invoice were based on a fee schedule included in a written contract with the firm. Three of the five attorneys and staff members invoiced

for September 2012 were billed at the hourly rates included on the contract fee schedule. However, the hourly rates invoiced for two attorneys, for which fees totaling \$4,376 were billed, were not listed on the contract fee schedule, and University records did not otherwise evidence the basis for the rates paid.

Absent adequate monitoring to ensure invoices are consistent with contract terms, the University has limited assurance that it is receiving services to which it is entitled at agreed upon prices.

**Recommendation:** The University should enhance its procedures for monitoring contract payments to ensure payments are in accordance with contract terms.

**Information Technology**

**Finding No. 4: Security Controls – User Authentication**

Security controls are intended to protect the confidentiality, integrity, and availability of data and information technology (IT) resources. Our audit disclosed certain University security controls related to user authentication that needed improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising University data and IT resources. However, we have notified appropriate University management of the specific issues. Without adequate security controls related to user authentication, the risk is increased that the confidentiality, integrity, and availability of University data and IT resources may be compromised. A similar finding was communicated to University management in connection with our report No. 2012-075.

**Recommendation:** The University should improve IT security controls related to user authentication to ensure the continued confidentiality, integrity, and availability of University data and IT resources.

**PRIOR AUDIT FOLLOW-UP**

The University had taken corrective actions for findings included in our report No. 2012-075, except that finding Nos. 1 and 4 were also noted in prior audit report No. 2012-075, as finding Nos. 2 and 7, respectively.

**OBJECTIVES, SCOPE, AND METHODOLOGY**

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida’s citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from February 2013 to September 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management’s performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.

- Examine internal controls designed and placed in operation to promote and encourage the achievement of management’s control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, safeguarding of assets, and identifying weaknesses in those controls.
- Determine whether management had taken corrective actions for findings included in our report No. 2012-075.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management’s internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

For those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

The scope and methodology of this operational audit are described in Exhibit A. Our audit included the selection and examination of records and transactions occurring during the 2011-12 and 2012-13 fiscal years. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

**AUTHORITY**

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT’S RESPONSE**

Management’s response is included as Exhibit B.

**EXHIBIT A**  
**AUDIT SCOPE AND METHODOLOGY**

Scope (Topic)	Methodology
Information technology (IT) user authentication controls.	Reviewed selected application security settings to determine whether authentication controls were configured and enforced in accordance with IT best practices.
Internal audit function (inspector general).	Reviewed the internal audit function to determine whether the University followed professional requirements and provided for peer review of reports issued.
Investments.	Determined whether the Board established investment policies and procedures as required by Section 218.415, Florida Statutes, and whether investments during the fiscal year were in accordance with those policies and procedures.
Student receivables.	Determined whether student receivables were properly authorized, documented, and properly recorded. Determined adequacy of collection efforts and whether uncollectable accounts written-off were properly approved. Determined whether restrictions on student records and holds on transcripts and diplomas were adequate and enforced for delinquent accounts.
Works of art and historical treasures.	Reviewed controls over works of art and historical treasures to determine whether the University had established adequate safeguards to protect such assets from theft or loss.
Tuition differential fees.	Reviewed payments from tuition differential fees collected to determine whether the University assessed and used tuition differential fees in compliance with Section 1009.24(16)(a), Florida Statutes.
Auxiliary operations contract compliance.	Examined selected auxiliary operation contracts to determine whether the University was properly monitoring compliance with the contract terms regarding fees, insurance, and other provisions.
Overtime payments.	Reviewed University policies, procedures, and supporting documentation evidencing the approval of, and necessity for, overtime payments. Performed analytical procedures to determine the reasonableness of overtime payments.
Severance pay.	Reviewed severance pay provisions in selected contracts to determine whether the University was in compliance with Florida Statutes.
Contractual agreements.	Determined whether contractual services were supported by Board-approved contracts. Also, examined and tested the aforementioned contracts to ensure that they were properly awarded and executed, that contract terms were adequately supported, and that vendors carried adequate insurance.
Construction administration.	For selected major construction projects, tested payments and supporting documentation to determine compliance with University policies and procedures and provisions of laws and rules. Also, for construction management contracts, determined whether the University monitored the selection process of architects and engineers, construction managers, and subcontractors by the construction manager.

**EXHIBIT A (CONTINUED)**  
**AUDIT SCOPE AND METHODOLOGY**

Scope (Topic)	Methodology
Wireless communications devices.	Reviewed policies and procedures to determine whether the University limited the use of, and documented the level of service for, wireless communication devices.
Direct-support organizations – conflicts of interest.	Determined whether the University had established policies and procedures to avoid potential conflicts of interest with vendors who were doing business with the University and made donations to the University’s direct-support organizations.

**EXHIBIT B**  
**MANAGEMENT'S RESPONSE**



**The Florida State University**  
Tallahassee, Florida 32306-1470

*Board of Trustees*  
211 Westcott Building  
(850) 644-1085 • Fax: (850) 644-9936

October 31, 2013

Mr. David W. Martin, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

The Florida State University's response to your findings and recommendations, for the Operational Audit of The Florida State University for the fiscal year ended June 30, 2013, is attached.

We continue to appreciate your audits, as they assist us in our ongoing efforts to improve our operations. If you have any questions about the responses, please contact Dr. Sam McCall, Chief Audit Officer, at 644-6031 or [smmccall@fsu.edu](mailto:smmccall@fsu.edu).

Thank you.

Sincerely,

Eric J. Barron  
President

Attachment

cc: Eric Algoe  
Michael Barrett  
Anne Blankenship  
Kyle Clark  
David Coburn  
Carolyn Egan  
Renisha Gibbs  
Michael Russo  
Garnett Stokes  
Michael Williams

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

Response to Preliminary and Tentative Findings  
Florida State University  
For the Fiscal Year Ended June 30, 2013

**Finding No. 1: Our tests disclosed payments totaling \$ 191,693 to two employees from tuition differential fees for which University records did not evidence that these employees provided a benefit to undergraduate programs and payments totaling \$1,959 to four graduate assistants teaching graduate courses, contrary to Section 1009.24(16), Florida Statutes.**

**Recommendation: The University should enhance its procedures to ensure that tuition differential fees are expended in accordance with Section 1009.24(16), Florida Statutes. In addition, the University should document of record how the payments of the professors salaries are consistent with the specified purposes of Section 1009.24(16), Florida Statutes, or restore the remaining \$191,693 of questioned costs to the tuition differential fee fund.**

**Response:** We are working with the College fiscal representatives to take steps to ensure that the faculty paid from tuition differential funds continue to work with undergraduate students. We looked into making programmatic changes to OMNI to prohibit payments from OPS funds. This is something that could be done, but would be difficult to do. The Controller's recommendation is to create a query that is run to identify graduate assistants being charged to the Tuition Differential fund. We currently run the query towards the end of the fiscal year and request payments be moved to the appropriate account. We will initiate the query more often to identify payments that have been miscoded.

The College of Arts and Sciences has provided additional information related to the undergraduate students in the professor's lab.

Two of the students are freshman Honors students both valedictorians in their class and both on a premed track. They were assisting in a professor's lab in Sp13 doing CHM1050L honors research. This is a class which gives freshman students the extraordinary opportunity of doing independent research. The professor was the supervisor for these students, but they show up under another professor as the latter professor was the instructor of record. Students in the professor's lab are expected to spend at least 6 hours a week in the lab and the professor mentors them almost daily. While 6 hours a week is the minimum, both of these students put in even more effort. At the end of the semester the students presented individual posters at a poster session. They also provide written reports to the professor. One student worked on making membranes for cell growth. The other student worked on stabilizing nanoparticles.

The third identified student was a sophomore at the time and signed up for a DIS. The DIS required a minimum of 6 hours in the lab with intense mentoring. The student worked on new adhesives which are stable when wet, useful for surgical operations. The student continued with the professor in Summer 2013. The student is writing up the whole project so we don't have a report yet, but there is plenty of evidence in the form of the lab notebook.

The fourth student worked in Fall '12 in the professor's lab on a full time practicum, on leave from the student's university outside the United States. They have been developing international collaborations in Chemistry, and the student's foreign university has sent a number of their undergraduates to complete a final semester of research at FSU. The results of their work are written up in a thesis (the professor has a copy). FSU has recruited graduate students from the foreign university. The student does not show up on the professor's roster but was on campus 40 hours per week with much effort on the professor's part required for mentoring.

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

Response to Preliminary and Tentative Findings  
Florida State University  
For the Fiscal Year Ended June 30, 2013

**Finding No. 2: Our tests disclosed \$85,038 of severance payments in excess of that allowed by Section 215.425, Florida Statutes.**

**Recommendation:** The University should continue its efforts to comply with the severance pay limitations provided by Section 215.425, Florida Statutes.

**Response:** As noted in your findings and recommendations and explained in detail in the University's correspondence dated June 21, 2013, it is the University's position that the severance pay limitations in Section 215.425, Florida Statutes, did not apply to the University until Chapter 2012-134, Laws of Florida, amended Section 1001.706(6)(d), Florida Statutes, to explicitly require universities to comply with the severance pay provisions in Section 215.425. The amendment to Section 1001.706(6) (d) was effective July 1, 2012. Prior to July 1, 2012, it is the University's position that severance pay could be up to one year of an employee's annual salary, as limited by the previous version of Section 1001.706(6) (d). Therefore, the University does not agree with the finding that, during the 2011-12 fiscal year, four administrative and professional (A&P) employees and one faculty member were inappropriately paid excess severance pay totaling \$28,865 and \$41,686, respectively. It is the University's position that all of these payments were made in compliance with the severance pay limitations applicable to the University at that time.

The University concedes that excess severance pay of \$14,487 was paid in error to one A&P employee during the 2012-13 fiscal year. However, the University notes, as was acknowledged in your preliminary and tentative findings and recommendations, that the payment was in agreement with the contract buyout provision contained in the employee's employment contract.

Finally, the University states that it will continue to strive to comply with the severance pay limitations in Section 1001.706(6) (d) and Section 215.425. In March 2013, the University revised all A&P employment agreements to comply with the severance pay limitations in these statutes. The revised employment agreements have been distributed to and executed by the University's A&P employees, and are now in effect. Thus, all contract buyouts of A&P employees in the future will not exceed 20 weeks of compensation.

**Finding No. 3: The University needed to enhance controls over payments for contractual services.**

**Recommendation:** The University should enhance its procedures for monitoring contract payments to ensure payments are in accordance with contract terms.

**Response:** Among other things, this finding references University payments totaling \$126,904 to a law firm for legal services during the period July 2012 through January 2013. The Finding notes that one of the payments for \$54,502 was for the services performed by five attorneys and staff members at varying hourly rates during September 2012. The Finding also states the hourly rates listed on the invoice were based on a fee schedule included in a written contract with the firm, but that three of the five attorneys and staff members invoiced for September 2012 were billed at the hourly rates not included on the contract fee schedule. The Finding concludes that the hourly rates invoiced for two attorneys, for which fees totaling \$4,376 were billed, were not listed on the contract fee schedule, and that University records did not otherwise evidence the basis for the rates paid. The University does not take issue with the fact that two professionals listed on the September 2012 invoice as providing services were not specifically listed on the fee schedule included in the contract for legal

**EXHIBIT B (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

Response to Preliminary and Tentative Findings  
Florida State University  
For the Fiscal Year Ended June 30, 2013

services, or that the University paid fees totaling \$4,376 for these two individuals' services based on the submitted invoice.

Section V. 1. of the contract for legal services provides:

**STAFFING:** [Name of Attorney] will be primarily responsible for this matter; however, other attorneys and legal assistants in firm may render assistance, as needed. Staffing will depend primarily upon the FIRM's judgment as to the experience and expertise required to discharge its professional responsibilities properly.

The Fee Schedule further provides in pertinent part:

**HOURLY BILLING SCHEDULE:**

**A. FIRM's attorney and paralegal staff to be used under this contract include the following individuals at the hourly rates indicated:**

Contract language that provides for particular individuals expected to be working on the matter but also provides for additional professionals as necessary is usual and customary in the industry. The use of the term "include" demonstrates that the list is not intended to be an exhaustive one that would limit the firm to using only the persons listed. We would note that the Florida Attorney General uses the same term "include" in its own contracts for legal services, which serves in large part the template for the University's contracts for legal services. All large law firms require flexibility to assign cases or certain elements of a case to various members of the firm, including a small detail requiring specific expertise to assist the primary attorneys handling the case for the firm.

In our opinion, requiring an amendment to a contract for legal services each time the primary lawyer assigns a minor task to another professional in the firm is not practicable, especially in complex cases, and it is not required by law. In the contract for legal services cited in Finding 3, the University provided adequate monitoring, ensured that the invoice was proper and consistent with the contract terms, and received all of the legal services to which it was entitled at the agreed upon fees.

Nevertheless, the Office of the General Counsel, which has responsibility for monitoring contracts for legal services, will continue to follow established University procedures for monitoring contract payments to firms to ensure that payments are in accordance with contract terms. Additionally, we will contemporaneously request confirmation of the hourly rate charged by each professional whose rate is not provided in the contract so that there exists evidence of the hourly rate for each professional utilized who is not particularly listed in the agreement.

**Finding No. 4: University information technology security controls related to user authentication needed improvement.**

**Recommendation:** The University should improve IT security controls related to user authentication to ensure the continued confidentiality, integrity, and availability of University data and IT resources.

**Response:** Florida State University concurs with the audit finding and in response has implemented a system modification to address and correct this issue.