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OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF STATE GOVERNMENT ACCOUNTABILITY

STATE UNIVERSITY OF NEW YORK

SPACE LEASING PRACTICES AT SELECTED CAMPUSES

Report 2007-S-81

AUDIT OBJECTIVES

One audit objective was to determine if selected SUNY campuses had adequate policies for assessing whether to use campus facilities or to lease premises to meet space requirements. Another objective was to determine if the occupancy of leased space by selected campuses coincided with their lease payments.

AUDIT RESULTS - SUMMARY

The audit included the University at Buffalo (Buffalo), the University at Stony Brook (Stony Brook), the Upstate Medical University in Syracuse (Upstate) and the Downstate Medical Center in Brooklyn (Downstate). These four campuses had 82 of the 136 active space leases throughout SUNY as of March 2008. The cost of the leases at the four campuses was $38.8 million for the two years ending March 31, 2008.

We found that the University at Buffalo had formal, written policies for assessing space needs and evaluating the leasing option. While Stony Brook had formal polices pertaining to space leasing, it needed to expand those policies to include the evaluation of existing available space. Neither Upstate nor Downstate had formal, written policies for assessing space needs and evaluating the leasing option. We also examined available documentation at the campuses for a sample of 46 of the 82 leases. With few exceptions, we found that there was no documentation supporting that campuses evaluated using existing campus space before entering into leases.

At the four campuses, we inspected about 916,000 square feet of leased space and determined that 897,000 square feet of this space (98 percent) was occupied while lease payments were taking place. At Buffalo and at Downstate we examined 13 leases accounting for 203,324 square feet of leased space and confirmed that all of the space was in use. However, at Stony Brook we concluded that 11,007 square feet of space (that were portions of three leases) went unoccupied for periods of six months or more. The lease costs associated with the unoccupied space at Stony Brook totaled $368,843. At Upstate, we identified two leased spaces that went unoccupied. Specifically, 5,885 square feet of one leased space went unoccupied for 47 months (with related cost of about $409,000), and 1,914 square feet of another leased space went unoccupied for six months (with a related cost of $21,054).

A number of factors must be considered when leasing space; including cost, size, location, availability, access, and repair and remodeling costs, among other concerns. Given the complexity of this matter and our audit findings, we concluded that Stony Brook and Upstate officials need to better document practices to formally assess the needs and options for leased space. Particularly in the difficult fiscal climate now facing the State, Stony Brook and Upstate need to better ensure that occupancy of leased space coincides with lease payments.

We made four recommendations, as appropriate, to the campuses covered by this audit. In their response to our draft audit report, SUNY officials agreed with our report's recommendations, and officials indicated the steps that they have taken and will be taking to implement them. SUNY officials also indicated that space leasing is a complex process and that certain circumstances contributed to the space vacancies noted in the report.

This report, dated February 12, 2009, is available on our website at http://www.osc.state.ny.us.
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Office of the State Comptroller
Division of State Government Accountability
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BACKGROUND

The State University of New York (SUNY) consists of 64 autonomous campuses including 29 State-operated campuses, 5 statutory colleges affiliated with private universities, and 30 community colleges. Campuses are located throughout the State, and SUNY maintains a central administrative office (System Administration) in Albany.

System Administration provides general oversight of SUNY operations. This includes ensuring SUNY campuses are good stewards of their resources, whether those resources are provided through State tax dollar support or generated through tuition or other charges. Such oversight may also involve ensuring adherence to appropriate SUNY and New York State policies, procedures, statutes, rules, regulations, or determining that campuses have appropriate and sound budget and planning practices in place.

As of March 2008, SUNY's 29 State-operated campuses had 136 leases for space. The estimated cost of these leases over their life was about $370 million. The lengths of the leases vary, but they typically have terms of about 10 years. We selected and visited 4 campuses: The University at Buffalo (Buffalo), The University at Stony Brook (Stony Brook), The Upstate Medical University in Syracuse (Upstate) and the Downstate Medical Center in Brooklyn (Downstate) that together had 82 active leases which accounted for $38.8 million of lease costs for the two years ending March 31, 2008. Buffalo, Stony Brook, Upstate and Downstate accounted for 12, 28, 36 and 6 of the leases, respectively. (See Exhibit A.)

AUDIT FINDINGS AND RECOMMENDATIONS

Assessing the Need to Lease Space

Each SUNY campus is responsible for internal controls for determining long and short term space requirements and for assessing whether those requirements are most cost effectively met through leasing or use of existing campus facilities. The specific controls for each campus should be formalized in writing and the steps taken to comply with the controls should be documented to support management decision making.

We found that Buffalo had formal policies requiring that existing campus space be assessed before decisions were made to lease additional space. The Buffalo policy required that when a decision was made to lease space there must also be a written explanation detailing why space currently available was not adequate to meet the specific needs of the campus program or campus operation that required the new space. While Stony Brook had a formal policy requiring a description of the anticipated use for new leased space, the policy needed to be expanded to include the evaluation of leasing versus using existing facilities and the maintenance of documentation supporting compliance with the policy. According to Stony Brook officials, formal assessments of space requirements and the leasing option are expected. However, the documentation of such assessments was inconsistent and often limited. Neither Upstate nor Downstate had a formal policy addressing the evaluation of existing space before deciding to lease additional space. We recommend that Upstate and Downstate maintain such formal, written policies.

In addition to assessing the adequacy of the policies at the campuses we visited, we also examined the adequacy of campus documentation pertaining to space leases. In total, we examined the files for 46 of the 82 active leases at the four campuses (including 23 at Upstate, 11 at Stony Brook, 6 at Buffalo, and 6 at Downstate). We found only five instances (two at Stony Brook and one each at Upstate, Downstate, and Buffalo) where documentation specifically showed that the campus assessed the option of using existing space prior to entering into a new lease. (Note: According to Buffalo officials, five of the leases we reviewed were negotiated prior to their policy requiring documentation of the assessment of existing available space.)

Also, for the 46 leases we reviewed, we determined that 28 (12 at Upstate, 11 at Stony Brook, 4 at Downstate, and 1 at Buffalo) had some form of documentation available supporting the assessment of the program or operational need justifying additional space. The extensiveness of the documentation that was available varied greatly. In some instances there was only one brief statement confirming that space was needed, and in other instances, there were comprehensive, analytical assessments supporting the space requirements. For the remaining 18 leases, we found no documentation of formal assessments of the program and operational needs for additional space.

When leasing space, a number of factors must be considered; including cost, size, location, availability, access, and repair and remodeling costs, among other concerns. As such, given the complexity of this matter and our audit findings, we concluded that Stony Brook and Upstate officials need to better document practices to formally assess needs for leased space. While the lack of documentation does not necessarily mean that appropriate practices and procedures were omitted in the lease decision making process, the presence of documentation promotes accountability and demonstrates whether necessary controls were complied with.

Occupancy of Leased Space

The occupancy of space when or soon after lease payments begin is an indicator that space planning and related leasing efforts have been adequately managed. At the four campuses, we inspected the use of about 916,000 square feet of leased space in connection with 57 leases (including 331,522 square feet of space at Stony Brook for 23 leases, 132,699 square feet of space at Buffalo for 7 leases, 70,625 square feet of space for 6 leases at Downstate and 380,698 square feet of space for 21 leases at Upstate). Overall, we found that about 897,000 square feet of the space (98 percent) was occupied at the time lease payments were being made. We found that all of the 132,699 square feet of leased space pertaining to the 7 leases at Buffalo were in use and that all of the 70,625 square feet of leased space pertaining to the 6 leases at Downstate were in use. However, our reviews at Stony Brook and Upstate disclosed that portions of certain leased areas were not being used.

At Stony Brook we found:

- A suite of 3,665 square feet of leased space was vacant from November 1, 2006 through May 1, 2008 (a period of 18 months) and was not planned for occupancy until early 2009. In the interim, the space will have remained unused for 26 months, with related lease costs totaling $156,672.

- The Hospital leased 6,802 square feet of space that was vacant from November 1, 2007 through May 1, 2008 (a period of six months) and was not planned for occupancy until Fall 2008. The lease costs related to this space for the period that it was not occupied totaled $109,670.

- A 540 square foot leased clinical office room was unused since the inception of the lease on January 1, 2000. At the time of our audit, the space had been unused for 101 months. Stony Brook officials indicated that the space was unused because of the inability to recruit qualified personnel to staff the office. The lease costs related to this unused space totaled $102,501.

At Upstate we found:

- A lease was amended in June 2004 to add over 18,000 square feet of space to an existing agreement. However, as of April 2008, 5,885 square feet of this space had been unused for 47 months. As of May 2008, most of the space had been placed in use. Nevertheless, Upstate incurred $409,000 of related lease costs while the space remained unused.

- Leased space totaling 1,914 square feet had been vacant since January 1, 2008. Although there were plans to occupy the space by July 2008, the related lease expense for this space while it remained unoccupied totaled $21,054.

- There were 14 more space lease agreements entered into after the previously discussed June 2004 lease amendment. Of these, seven were for areas comparable (in terms of square feet) to the unused space acquired in connection with the June 2004 lease amendment. Nevertheless, there was no documentation that consideration had been given to using the excess capacity associated with the June 2004 lease to meet the requirements for any of these seven subsequent leases.

We also recognize that the campuses we visited are large operations with dynamic conditions that can change between the time a decision is made to lease space and the time the leased space is available for occupancy. In addition, lease terms are typically for several years and during that time space may become vacant due to program changes. Nevertheless, every effort must be made to ensure that lease payments coincide with the actual use of the leased space. This is even more important in the difficult fiscal climate now facing the State and SUNY.

Other Matters

The State University Construction Fund maintains a database identifying space owned and leased throughout SUNY. This database is one tool that campuses could employ to help assess space requirements and to evaluate the option of leasing versus using existing campus space. However, the database should be accurate to assure it is as useful as possible. We found that the information for Buffalo was accurately recorded in the database. However, for the other three campuses that we visited we found the following:

- For Stony Brook, the database indicated that 11,007 square feet of clinical space was in use. However, as we noted in our visit to the campus, the space was not in use.

- At Upstate, we found one leased space of 5,400 square feet was under alteration, but the database indicated the space was in use.

- At Downstate, more than 27,000 of square feet of leased space was recorded in the database, but the leases for this space had expired.

Recommendations

1. Upstate and Downstate should establish formal, written policy for program and operational space requirements and related leasing decisions. Stony Brook should expand its existing policy to include the evaluation of existing available space.

2. Upstate, Downstate, Buffalo and Stony Brook should make sure that they document analyses of space requirements as well as the evaluation of leasing space versus using existing space.

3. Stony Brook and Upstate should ensure that the commencement of lease payments coincides with the occupancy of the leased space to the extent possible. Periods of vacancy should be minimized.

4. Stony Brook, Downstate, and Upstate need to make sure that they maintain the SUNY Construction Fund space inventory database in an accurate manner.

AUDIT SCOPE AND METHODOLOGY

We audited the space leasing practices of selected SUNY campuses for the period April 1, 2006 through March 31, 2008 to determine if selected SUNY campuses had adequate policies for assessing whether to use campus facilities or to lease premises to meet space requirements. Another objective was to determine if the occupancy of leased space by selected campuses coincided with their lease payments. For the purposes of this audit, we limited the SUNY lease population to only those leases that were in effect as of April 1, 2006 or later, and excluded space leases with zero dollar contract amounts and those for parking and vessel docking.

To accomplish our audit objectives, we reviewed the files of leases for office, academic and clinical space in effect as of April 1, 2006 and related SUNY policies and procedures. We interviewed System Administration officials and analyzed the data stored in the database. We visited four of the larger SUNY leasers of space; Buffalo, Stony Brook, Downstate and Upstate. These campuses accounted for nearly 64 percent of the total dollar value of SUNY’s space leases. At each campus, we interviewed key campus personnel and reviewed campus policies and procedures relating to the leasing of space. We also site visited certain properties leased by the campuses.

We conducted our performance audit 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 audit 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.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

REPORTING REQUIREMENTS

We provided a draft copy of this report to SUNY officials for their review and formal comment. Their comments have been considered in the preparation of this report and are included as Appendix A. Our rejoinders to SUNY's comments are presented in Appendix B, State Comptroller's Comments. SUNY officials agreed with our report's recommendations, and officials indicated the steps that they have taken and will be taking to implement them. SUNY officials also indicated that space leasing is a complex process and that certain circumstances contributed to the space vacancies noted in the report.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Chancellor of the State University of New York shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Brian Mason, William Clynes, Danielle Rancy, Mark Breunig, Robert Horn and Sue Gold.

EXHIBIT A

State University of New York
Summary of Leases, Square Footage and Contract Amounts by Campus
As of March 2008

Campus	No. of Leases	Cumulative Square Footage	Cumulative Dollar Amount of Contracts
Upstate Medical Center	36	411,896	$91,416,382
Stony Brook University Center	28	341,542	$98,038,878
Empire State College	23	164,761	$47,607,685
Buffalo University Center	12	221,635	$33,988,197
Statutory Colleges at Cornell	3	36,980	$26,168,183
Downstate Medical Center	6	105,952	$24,871,561
Albany University Center	7	92,222	$17,201,518
Morrisville State College	3	122,059	$10,925,414
Alfred College of Technology	2	225,181	$7,283,104
Farmingdale State College	2	44,559	$4,601,193
Binghamton University Center	2	35,035	$2,864,789
Brockport State College	2	16,516	$2,614,371
Oswego State College	2	8,593	$2,317,355
All Other Campuses	8	21,309	$796,135
Totals	**136**	**1,848,240**	**$370,694,765**

Note: Square footage data was obtained from SUNY's Physical Space Inventory Database. Contract dollar amounts were obtained from the State Comptroller's Contract Master File. Leases are for varying periods of time, generally in the range of 5 to 20 years. A common period of a lease is 10 years.

APPENDIX A - AUDITEE RESPONSE

THE STATE UNIVERSITY *of* NEW YORK

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January 16, 2009

Mr. Steven Sossei
Audit Director
Division of State Government Accountability
Office of the State Comptroller
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Sossei:

In accordance with Section 170 of the Executive Law, we are providing our comments to the draft audit report on the State University of New York Space Leasing Practices at Selected Campuses. We are pleased that your audit found that nearly all leased spaced (98%) observed by your auditors was being utilized and that campuses had established effective practices for leasing space. We also recognize there is an opportunity for campuses to better document certain aspects of those practices including the assessments conducted that lead to space leasing decisions. The University generally agrees with the recommendations and has taken, or will take, action to address them. However, we are concerned that the audit report does not adequately acknowledge (1) the procedures utilized by campuses in making leasing decisions, (2) the Office of the State Comptroller's role in approving leases, (3) the circumstances that lead to unoccupied space, and (4) the complexity of factors that impact leasing decisions.

The audit report does not adequately acknowledge that the campuses reviewed do have procedures in place for assessing program and operational needs justifying leased space. For example, both Upstate Medical Center and Stony brook University have a planning office and a committee with expertise in finance, design, and construction that, with input from institutional users, decide space issues. While the decisions could be better documented, they were made with careful deliberation and thought. In fact, many of the leases reviewed by the auditors pertain to medical clinics and University Hospitals must go through a rigorous application process with the Department of Health (DOH). This process, documented through the Certificate of Need (CoN) program, is a regulatory process that requires certain health care providers to obtain State approval or review before offering certain new or expanded services. The nature of the CoN process requires an extensive assessment of program and operational needs including the physical space (owned or leased) where the services will be provided. The audit report does not adequately acknowledge the campus' procedures and processes for assessing program and operational needs for space including the CoN process.

* Comment 1

Furthermore, the audit report's section on assessing the need to lease space hones in on the lack of documentation showing that "existing space was considered." This is one small piece of many factors that must be, and are, considered in deciding to lease space. However, it is not reasonable to expect that campuses would document that "existing space was considered" when there is no existing space. For example, four of the leases reviewed at Downstate were outpatient satellite medical clinics located in various communities where the campus does not currently provide such services or have any space in the identified community.

* Comment 2

The audit does not adequately acknowledge the role of OSC in approving lease contracts. Each lease must be reviewed and approved by OSC prior to the start of the lease. Furthermore, OSC has not provided written guidance or a checklist on the type of documentation required for leases. Such guidance or a checklist would help clarify OSC's expectations regarding leases and would be beneficial to the University's campuses as well as other State agencies that lease space.

* Comment 3

The audit report does not adequately acknowledge the circumstances that lead to certain space being vacated. Campuses function under tight operating budgets and make every effort to ensure that leased space is being fully occupied. However, there are situations that may arise that would require campuses to vacate all or a portion of a lease prior to the lease expiration, including the need to consolidate patient services to enhance patient care. For example, at Stony Brook 6,802 square feet of space was vacated by a breast care center when those services were relocated to a newly constructed ambulatory care pavilion on the main campus. The Campus determined that the relocation was necessary to improve the quality of patient care and access to diagnostic and therapeutic radiographic services. The relocation of the breast care center also coincides with the Campus' strategic plan to establish a comprehensive cancer care center on Long Island. When events such as these arise, campuses generally make every effort to re-occupy the space. For example, at Stony Brook, the Campus created a committee to determine how best to utilize a portion of leased space that had been occupied for 12 years by a clinic prior to being vacated.

* Comment 4

Furthermore, situations may arise that are out of the control of the campus. For example, due to the recommendations of the Berger Commission (which Upstate became aware of in November 2006), construction plans had to be put on hold until the Commission's recommendations were addressed. The Campus estimates that it was approximately 18 months before the recommendations of the Berger Commission could be addressed and a CoN approved that would then allow them to go forward with plans to occupy the 5,885 square feet of leased space cited in the report.

* Comment 5

* See State Comptroller's Comments on pages 13 and 14

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The audit report also does not acknowledge other key factors about the unused space. The report does not show that three of the vacant spaces (the 3,665, 6,802, and the 1,914 square feet of leased space) had been fully occupied by the campuses for periods ranging from 7 to 12 years prior to the space becoming vacant. The report also does not show that four of the vacant spaces (the 3,665, 6,802, 540 and 5,885 square feet of leased space) represent a portion of the total space being leased per contract. For example, the 540 square feet of vacant space is part of a lease for 6,800 square feet and the 5,885 square feet of vacant of space is part of a lease for over 113,000 square feet of space. While it is optimal that the Campus find space that meets their exact needs and not have any vacant space, this is not always a viable option. In these instances, rather then prevent expansion or the enhancement of patient care, campuses may at times have to assume leases where not all of the space will be fully occupied at inception. However, every effort is made by the campuses to find a use for those spaces.

* Comment 6

Finally, the audit report does not adequately acknowledge that there are many other factors that must be considered when leasing property. These include availability, terms of the lease, location, current and future program needs, access, build-out costs, current real estate market conditions, and the need to expand programs and clinics to meet the mission of the campuses and to provide better patient care. For example, the report notes that seven new leases were entered into when there was 5,885 square feet of unoccupied leased space. The report implies that the existing space should have been used since the square footage needed was less then or equal to the vacant space. However, the audit does not take into consideration build-out cost, moving expenses, business purpose, change in plans, program effectiveness at a new location, or the possibility of having to vacate the space once its intended use as swing space became available (resulting in additional build-out costs and moving expense).

* Comment 7

* Comment 8

With regard to the specific recommendations contained in the report, we offer the following responses:

Recommendation 1: Upstate and Downstate should establish formal, written policy for program and operational space requirements and related leasing decisions. Stony Brook should expand its exiting policy to include the evaluation of existing available space.

University Response: Agree. While we agree with the need to establish written policies and procedures, it would be helpful if OSC would provide guidance or a checklist establishing the criteria that is expected to be documented for each leasing decision. Currently, OSC has not issued any formal written guidance on this matter or required a standard set of documentation when approving leases.

Recommendation 2: Upstate, Downstate, Buffalo and Stony Brook should make sure that they document analyses of space requirements as well as the evaluation of leasing space versus using existing space.

* See State Comptroller's Comments on page 14

University Response: Agree. We also note that documentation was available for many of the leases. For example, Stony Brook University had documentation justifying the need for space for all 11 leases reviewed (100%) by OSC. The campuses will continue to document their analysis of programs and the need for space which includes documentation provided to both OSC in the approval of leases and DOH as part of the CoN process, as appropriate.

Recommendation 3: Stony Brook and Upstate should ensure that the commencement of lease payments coincides with the occupancy of the leased space to the extent possible. Periods of vacancy should be minimized.

University Response: Agree. The University will continue to ensure that leased space is occupied to the fullest extent possible.

Recommendation 4: Stony Brook, Downstate, and Upstate need to make sure that they maintain the SUNY Construction Fund space inventory database in an accurate manner.

University Response: Agree. The campuses will make every effort to ensure that the database is accurate.

Thank you for the opportunity to respond to the preliminary findings report. If you have any questions, please contact Michael Abbott at 518-443-5533 or michael.abbott@suny.edu.

Sincerely,

James R. VanVoorst
Interim Vice Chancellor
for Finance and Business

Copy: Mr. O'Connor
Mr. Abbott

APPENDIX B - STATE COMPTROLLER COMMENTS ON AUDITEE RESPONSE

1. The State Department of Health's Certificate of Need (CoN) application process primarily addresses the programmatic justification (need) for a new or expanded licensed health care operation in a particular geographic region or locality. The Department of Health does not formally assess an applicant's space availability or leasing needs in this process. That is the responsibility of the CoN applicant. Consequently, it should not be concluded that an agency has adequately resolved all space management and leasing matters related to a new or modified health care program simply because the Department of Health has approved a CoN application for that program.

2. As we acknowledge in our report, no space leased by Downstate was vacant at the time of our audit fieldwork. However, over time, the nature of health care programs and affiliations can change significantly. For example, an existing program could move to expanded and/or improved facilities, which could result in available vacant space. Or, a program (or affiliation) could be terminated, also resulting in available vacant space. Other SUNY institutions have experienced such program changes in recent years. For example, SUNY officials note the relocation of a breast cancer center at Stony Brook, which resulted in vacant leased space. Consequently, Downstate, as well as the other SUNY institutions, should have formal policies and procedures to assess the use of available vacant space, to the extent it exists. If there is no available vacant space at the time a program is added or expanded, it should simply be noted and documented as part of the formal space needs assessment process.

3. It should not be concluded that an agency has adequately resolved all space management issues pertaining to leased space simply because the State Comptroller has approved a lease contract. The decision to lease space is an agency management responsibility that should be supported by analysis and documentation furnished by the agency. Moreover, OSC has provided training to State agencies regarding the practices for leasing space, and that training has included the need for formal space needs assessments. However, agencies should develop their own specific policies and procedures for preparing such assessments, given the unique nature of their respective programs. This applies particularly to SUNY, given the special autonomy it has been granted under the provisions of the SUNY Flexibility Program legislation.

4. Our report does not take issue with Stony Brook's relocation of its breast care center. However, as our report notes, the space (6,802 square feet) vacated by the breast care center had gone unused for six months at the time of our fieldwork, and at that time, Stony Brook officials had no written plans for using any of it. Subsequently, Stony Brook officials advised us of plans to occupy the vacated space in November of 2008. Given the size and cost (about $110,000) of this vacant space, we believe that officials should have had formal plans for its use prior to our review. Also, we acknowledge the potential benefits of a committee to determine the use of vacant space. However, the work of such a

committee should be timely enough to minimize the duration and cost of vacant space.

5. We question whether the findings and recommendations of the Berger Commission Report delayed plans to utilize the 5,885 square feet of vacant space in question. At the time of our site visit, Upstate officials had no formal plans for using this space. According to officials, this was "swing space" which could be used for shorter term relocations. We also note that the lease of this space began in June 2004, and Upstate officials became aware of the Berger Commission Report in November 2006. Consequently, the space in question was vacant for nearly two and one-half years prior to the Commission's Report (which was issued officially in December 2006). Furthermore, Upstate officials initiated another lease, effective May 1, 2007 (subsequent to the Commission's Report), for 4,366 square feet of space without formally evaluating the 5,885 square feet of vacant space we identified. In particular, given the findings of the Commission, we question why Upstate leased new space when a sufficient amount of vacant space might already have been available.

6. Our report clearly states that portions (not the entirety) of certain leased areas were not being used. Moreover, SUNY officials provided us with no details or documentation of any specific instances in which campuses leased more space than was actually needed to meet program and operational requirements in order to successfully negotiate lease contracts.

7. Our report acknowledges the complexity of the space planning and leasing process. On page 4 of the report we state that: "When leasing space, a number of factors must be considered; including cost, size, location, availability, access, and repair and remodeling costs, among other concerns." Consequently, we concluded that agencies should have a formal documented process to help ensure that all of the factors impacting space need and leasing matters are adequately addressed.

8. Neither Upstate nor SUNY System Administration officials provided us with any formal analysis of build-out costs, moving expenses, business purpose, program effectiveness, or any other factors impacting the use of the 5,885 square feet of vacant space in question. Consequently, any implication that this "swing space" was not suitable for other needs is theoretical and speculative. Moreover, we believe this illustrates why major space acquisitions should be based on well-documented analysis of space needs and options.