



Board of Trustees

11000 University Parkway

Pensacola, FL 32514-5750

September 9, 2020

Charles H. Lydecker, Chair  
Board of Governors, Audit and Compliance Committee  
State University System of Florida

Dear Chair Lydecker,

On behalf of the Board of Trustees and the Administration of the University of West Florida, I acknowledge receipt of your letter dated August 4, 2020, outlining the series of events leading to the impasse we are experiencing relative to draws UWF made on the Carry Forward Funds relative to the Complete Florida Plus Program (CFPP). At issue, specifically, are CFPP Carry Forward funds totaling \$2,394,525, drawn between 2017 and 2019.

*At the outset, I would like to report that the UWF Board of Trustees has approved a plan that will comply with the request made in your letter, and allow for the full restoration of the funds in question, for the use of supporting the continuation of essential services (Essential Services), formerly conveyed to the state's educational institutions under the CFPP umbrella.*

That said, we appreciate this opportunity to respond to your letter, and explain why we have approved restoration of the funds, while still asserting our interpretation of the authority and Appropriations Proviso that allowed for the draws originally.

The CFPP mission and mandate represented an extensive and complicated resource and comprehensive array of services to our state universities, colleges, and secondary schools. *UWF's role in administering those services and shepherding them to delivery was both a large source of pride and a significant burden on our administrative, human resources, legal services, procurement, and leadership teams.* To provide perspective, the CFPP budget represented approximately 30% of UWF's annual legislative appropriations, and the workload associated with administering the programs, contracts, personnel, and subscriptions has been (and continues to be, through the transition of the Essential Services) immense. We have provided an exhaustive exemplar evidencing the University's administrative overhead in administering the program, and it is voluminous and compelling in its documentation of the associated workload.

Accordingly, the restoration of the funds is made with no admission of intentional wrongdoing. As was stated at our recent Audit Committee meeting, a *"bottom right-hand corner"* conclusion (by an independent, third party accounting firm, contracted jointly by UWF and the Board of Governors) indicates *a five-year cumulative \$1.6mm underpayment to UWF.* This independently determined conclusion establishes that there was absence of malice and no ill intent, as the University attempted to draw Administrative Cost reimbursements in keeping with what was earned and owed, and according to UWF's interpretation of the authoritative guidance.

*We intentionally use the words "draw" and "drawn", as opposed to "sweep" and "swept". Recognizing that references to Carry Forward "sweeps" and funds being "swept" are ingrained parts of the lexicon, we*

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**believe that use of those contentious words is both inaccurate and inflammatory.** There was no attempt to "sweep" funds for a legislatively unintended or undesignated use. Rather, each time funds were drawn from Carry Forward, there was an accompanying internal dialogue regarding the 5.0% Administrative Cost limitation and whether the draw in question left the university comfortably below the maximum cost recovery allowed.

**With that calculation made, UWF personnel determined that the 5.0% threshold for administrative services rendered in the current and prior years had not been breached. It is therefore the University's continuing assertion that the questioned draws on CFPP Carry Forward were both allowed and appropriate, as they represented disbursements for CFPP expenditures for Administrative Costs, that were duly earned and delivered by UWF. And once earned and subsequently drawn as payment for E&G Administrative Costs, it is our further position that those funds could only be used for University purposes and projects, as allowed for in the University's Carry Forward spending guidelines. At that point, the drawn funds represented recovered University E&G expenses, and therefore could not and should not be used for CFPP-related purposes.**

In summary, UWF continues to interpret that the Appropriations Proviso allows for recovery of Administrative Costs not to exceed an allowable 5.0% threshold, whether collected contemporaneously within the fiscal year, or as a previously earned and allowable Carry Forward expenditure. We recognize that this interpretation has become the central issue and the subject of the current impasse. **We further recognize that this is a disagreement that has not been legally or legislatively clarified or resolved, and that the brevity and resulting ambiguity of the language of the Appropriations Proviso continues to be the source of the differing interpretations.**

Given all this and to resolve this matter for the good of this institution, for the good of the SUS, and for the good of all the stakeholders relying on the continuation of the Essential Services, it is our Board of Trustees' belief that now is the time to "agree to disagree" on the interpretation of CFPP Administrative Cost reimbursements, and the timing and manner in which they were earned and paid. In order to resolve this impasse and move past the disagreement, our Board has accepted the Saltmarsh report and the related response from the Board of Governors, as well as our response thereto (as represented by this letter). We concurrently approved compliance with the Board of Governors' request to restore the \$2,394,525 in CFPP Carry Forward funds, according to a financial plan and on a schedule developed and agreed upon by our respective staff.

**In approving this repayment plan, the UWF Board of Trustees and its administration emphasize, in the strongest way possible, that when the Carry Forward draws were originally executed, the funds were drawn in good faith, and in a manner that was in keeping with UWF's interpretation of the provisions for duly earned administrative cost disbursements. In the end, it is our intent and desire that the integrity of this institution and its people be rightfully preserved.** As we have said all along, and continue to fervently believe, good people and career professionals were doing their job to the best of their ability in executing their understanding of an arcane reimbursement process.

In closing, Mr. Chairman, I thank you for your consideration of our position on the issues and disagreements at hand, and I hope that you and your committee will agree that the foregoing represents a constructive path forward for all concerned. We look forward to having this matter resolved to the satisfaction of all the stakeholders involved, and stand ready to cooperate as fully and as completely as possible towards that end.

Respectfully submitted,



Dave Cleveland, Chair  
Board of Trustees  
University of West Florida



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August 4, 2020

David E. Cleveland  
Chairman, Board of Trustees  
University of West Florida

Via Email

Dear Chair Cleveland:

After having reviewed the UWF operational audit issued by the Florida Auditor General (Report No. 2020-152) and the Saltmarsh, Cleaveland, and Gund (Saltmarsh) report, I have consulted with senior management in the Board of Governors office. The following are our observations and position related to the issues reviewed in the reports.

The university swept carry forward funds, totaling \$2,394,525, that are claimed to be based on a calculated differential of administrative expenses that had been charged to the Complete Florida Plus Program (CFPP) versus an appropriations proviso allowing administrative expenses not in excess of 5% of the annual approval for CFPP. The Auditor General report questioned the university's authority to retroactively withdraw amounts for prior year administrative costs. We also understand that UWF had not identified any additional or corrected expenses in early discussions related to these sweeps and the use of the swept funds was for deferred maintenance and other expenses that had not been specifically identified as CFPP related.

Based on our review, we concur with the Auditor General's finding on this matter and believe UWF should repay \$2,394,525 to the carry forward balance of CFPP. This is supported by the fact that when the Florida Legislature appropriates specific funding for a program either as a line item or as designated in proviso, funds that carry forward at the end of the fiscal year should remain as designated. Otherwise, there is the potential to underspend appropriated funds for the program and convert their use for other than legislative intent.

Saltmarsh's report, which is based on their analysis of financial records and interviews conducted, demonstrates that the university has failed to establish appropriate practices and procedures to timely account for and administer the financial activity of the CFPP. This failure dates back to the beginning of the transfer of the additional programs (library, online, and other support services) that created the CFPP and is supported by the fact that the university has not maintained sufficient accounting

records to differentiate and properly account for expenses that involved shared activity between UWF and CFPP. The Saltmarsh report indicates that UWF undercharged CFPP a net of \$1.6M. However, since we believe it was improper for the university to retroactively sweep the \$2.4M in carryforward funds for non-CFPP purposes, it appears UWF undercharged CFPP approximately \$4M as a result of insufficient accounting practices.

It is our position that it would be improper to charge CFPP for expenses that were incurred in previous years as a result of UWF's failure to establish internally effective accounting controls over these funds. Therefore, the "owed" expenditures should not and cannot be offset against the amount of the improper CFPP sweeps. Given this, and our understanding that the swept funds were not used consistent with their legislative intent, UWF should immediately restore the \$2,394,525 of funds swept from the CFPP carryforward funds.

Sincerely,



Charles H. Lydecker, Chair  
Board of Governors, Audit and Compliance Committee  
State University System of Florida

C: Syd Kitson, Chair, Board of Governors  
Brian Lamb, Vice Chair, Board of Governors  
Marshall Criser III, Chancellor  
Dr. Martha Saunders, President, University of West Florida  
Vikki Shirley, General Counsel  
Tim Jones, Vice Chancellor, Finance/Administration and CFO  
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