

Report on the

# STATE OF ALABAMA RECOVERY AUDIT

**Alabama Colleges and Universities**

October 1, 2008 through September 30, 2011

**CONDUCTED BY  
RECOVERY AUDIT SPECIALISTS, LLC**

Filed: December 26, 2014



**Department of  
Examiners of Public Accounts**

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*Ronald L. Jones, Chief Examiner*



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Dear Members of the Legislature and Citizens of the State of Alabama:

In accordance with the *Code of Alabama 1975*, Section 41-5-6.1, the Chief Examiner of Public Accounts hereby releases the following Final Recovery Audit Report prepared by Recovery Audit Specialist, LLC (RAS) and responses from agencies who elected to respond when a draft copy of the report was furnished to them by this Department.

*RECOVERY AUDIT SPECIALISTS, LLC - ALABAMA PUBLIC UNIVERSITIES' 2014  
RECOVERY AUDIT MANAGEMENT REPORT*

*Response – University of South Alabama  
Response– Alabama Institute for Deaf and Blind (AIDB)*

Any views, opinions or findings in the recovery audit report are solely those of the contractor. The Examiners of Public Accounts makes no representations or warranties of any kind, express or implied about the completeness, accuracy, or reliability with respect to its content. Any reliance placed on such information is therefore strictly at the users' risk.

Readers of the report are encouraged to read any corresponding responses from the applicable agencies to gain a better understanding and perspective of the matters included in the recovery audit report.

The report and responses may be obtained by visiting our website [www.Examiners.State.Alabama.gov](http://www.Examiners.State.Alabama.gov) and clicking the **Information and Other Resources** Icon and then clicking "**Other**" or by contacting us at Department of Examiners of Public Accounts, P.O. Box 302251, Montgomery, Alabama, 36130-2251, (334) 242-9200.

The report and corresponding responses have been reproduced as submitted and are being released by this office to comply with applicable statutes. The Department of Examiners of Public Accounts did not participate in the preparation of the report and responses.

Sincerely,

Ronald L. Jones  
CHIEF EXAMINER.



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*Alabama Public Universities' 2014  
Recovery Audit Management Report*



*RECOVERY AUDIT SPECIALISTS, LLC  
ALABAMA PUBLIC UNIVERSITIES'  
2014 RECOVERY AUDIT  
MANAGEMENT  
REPORT*

**Final  
Report**

Prepared for the State of Alabama  
Department of Examiners of Public Accounts  
Ronald L. Jones, Chief Examiner  
July 2014

# Recovery Audit Specialists

Accountability ▪ Transparency ▪ Recovered Funds

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President/CEO, Recovery  
Audit Specialists, LLC

July 29, 2014

Ronald L. Jones

Chief Examiner

Alabama Department of Examiners of Public Accounts

P.O. Box 302251

Montgomery, AL 36130-2251

Dear Mr. Jones:

Recovery Audit Specialists (RAS) is pleased to provide you with the Final Recovery Audit Management Report for universities and colleges, as specified by Alabama Act 2011-703. The report includes RAS' audit observations and recommendations.

RAS sincerely appreciates the support provided by you and other officials in the Examiners Office; in particular, Christine Harden, Sharon Russell and Alice Martin, with whom RAS closely worked.

It appears that Alabama's educational institutions have adequate controls and procedures in place to appropriately process financial transactions. Auditors discovered that state personnel had already corrected many overpayments and processed credits due. RAS' audit technology analyzed more than \$15 billion in expenditures and identified transactions with potential overpayments for examination by auditors. In total, four auditors conducted fieldwork in Alabama for forty-five weeks examining supporting documentation for transactions with potential overpayments.

RAS' reviewed \$15.748 billion in payables for non-medical related expenditures and recovered \$115,774.92 in overpayments from vendors and service providers for the State. RAS uncovered an unauthorized, and undisclosed, withholding by BCBSAL as an additional administrative fee for pharmacy benefit services that totaled \$1,090,275 over eighteen months from five universities. These funds have not been recovered from BCBSAL.

RAS appreciates the opportunity to perform our services for the State and the confidence and trust you placed in us to conduct this recovery audit.

Sincerely,



Brenda Russell

President/CEO



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## *Executive Summary*

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The Alabama legislature led the nation by enacting the most comprehensive statewide recovery audit law to date, Act 2011-703 (Act) (AL Code § 41-5-6.1 (2012)). By enactment of its law and initiation of a program of recovery audits, Alabama has taken the lead in providing transparency and accountability and ensuring public resources are being prudently managed.

Recovery audits are a strong management tool that can help control costs, strengthen financial systems and encourage state vendors and service providers to operate in a transparent manner, as well as document the State's achievement in being prudent managers of state resources.

The law authorizes the Chief Examiner of Public Accounts to enter into contracts for recovery audits to recover overpayments made by state agencies to individuals, vendors, service providers and other entities. The Department of Examiners of Public Accounts (EPA) contracted Recovery Audit Specialists, LLC (RAS) through an open Request for Proposal (RFP) process to conduct statewide recovery audits of state expenditures made during Fiscal Years 2009 through 2011.

The Alabama Statute established a special fund within the State Treasury for the deposit of all funds generated from the recovery audits. All recovered funds are paid directly to the state.

RAS' technology and data analysts reviewed a total of \$14.568 billion in expenditures from state universities and a total of \$1.18 billion from colleges and technical schools for non-medical related expenditures. This represents \$15.748 billion in payables.

RAS identified, documented and recovered \$115,774.92 in overpayments from vendors and service providers from seventeen (17) public institutions of higher education. All of these overpayments have been recovered for the State.

RAS could not audit five of the six self-funded insurance plans for prescriptions drug costs because the agreement between the universities and BCBSAL did not contain any discount price guarantees. So there is no price benchmark to audit for accuracy of costs.

RAS did discover that BCBSAL was charging an additional unauthorized administrative fee to those five universities by withholding drug manufacturer rebates owed to the universities. Each university has confirmed that it did not know of the withholding nor did it approve the withholding.

**The unauthorized, and undisclosed, withholding as an additional administrative fee amounted to a total of \$1,090,275 over eighteen months for the five universities. These funds have not been recovered from BCBSAL.**

RAS' was unable to conduct medical claims audits for the universities because BCBSAL would not agree to a full recovery audit.



# ***Recovery Audit Management Report for Public Higher Education Institutions***

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## ***Alabama Leading the Way***

The Alabama legislature led the nation by enacting the most comprehensive statewide recovery audit law to date, Act 2011-703 (Act) (AL Code § 41-5-6.1 (2012)). By enactment of its law and initiation of a program of recovery audits, Alabama has taken the lead in providing transparency and accountability and ensuring public resources are being prudently managed.

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The Alabama Statute established a special fund within the State Treasury for the deposit of all funds generated from the recovery audits. All recovered funds are paid directly to the state.

RAS performed the audits on a contingency fee basis. This means that auditors identify, document and recover the overpayments for the State. Auditors are then compensated by a percentage of the amount recovered after funds have been deposited into the state's special fund that was established by the state legislature for receipt of the overpayments.

The law stipulates that auditors shall be provided with any and all payment-related information necessary to perform the audit, including any confidential information as determined by the Chief Examiner. The final success of a recovery audit depends on compliance with the audit requirements, transparency and accountability by vendors and service providers.

The Request for Proposal (RFP) issued by the Examiner's Office for comprehensive recovery audits required the auditor to examine expenditures for state agencies and departments, state universities and colleges, and the state's health insurance benefits plans. The healthcare expenditures are processed by outside vendors, called Third Party Administrators and Pharmacy Benefit Managers.

This report is focused on the transactions made by the higher educational institutions. It documents the process used, challenges encountered, overpayments documented, as well as recommendations arising from the audit. The report includes auditors' observations and recommendations arising from the audit



and complies with Alabama Act 2011-703 requirements that auditors provide a detailed report to the Examiner describing the methodology used to conduct the recovery audit component and the results, including problems found, overpayments identified, actual amounts collected, and recommendations to correct any problems identified.

Recovery Audit Specialists appreciates the opportunity to be of service to Alabama and wants to acknowledge the guidance and assistance provided by the staff from the Department of Examiners of Public Accounts during the project.

The ultimate success of a recovery audit, however, is contingent upon cooperation from state entities and Alabama's vendors and service providers. Vendors and service providers have a duty to operate in a transparent and accountable manner since their goods and services are being paid for with tax dollars.

## *Scope of the Recovery Audit*

RAS was selected to undertake comprehensive recovery audits to identify, document and recover overpayments or inappropriate disbursements of state expenditures during Fiscal Years 2009 -2011 (October 1, 2008 through September 30, 2011). Alabama law specifies that recovery audits be complementary to financial management processes and not replace existing or future state audit or program integrity activities.

RAS was contracted to examine the transactions (excluding payroll) for the following three broad state components required by the statute:

1. State agencies and departments;
2. State universities and colleges; and
3. Public Education Employees' Health Insurance Plan (PEHIP) and the State Employees' Health Insurance Plan (PEEHIP)

The Alabama public higher education system consists of fourteen universities and twenty-nine colleges and technical schools. Each university, college and technical school operates its own separate accounting system requiring each one to be set up as a separate audit.

The majority of schools provide their employee health benefits through PEEHIP. Auburn University, Troy University, University of Alabama, University of Alabama at Birmingham, University of Alabama at Huntsville and University of South Alabama provide their own employee health benefits program.

## *Definition of Overpayment*

RAS was charged with reviewing payments and determining whether State funds were spent appropriately. Alabama Act 2011-703 defines an overpayment as:

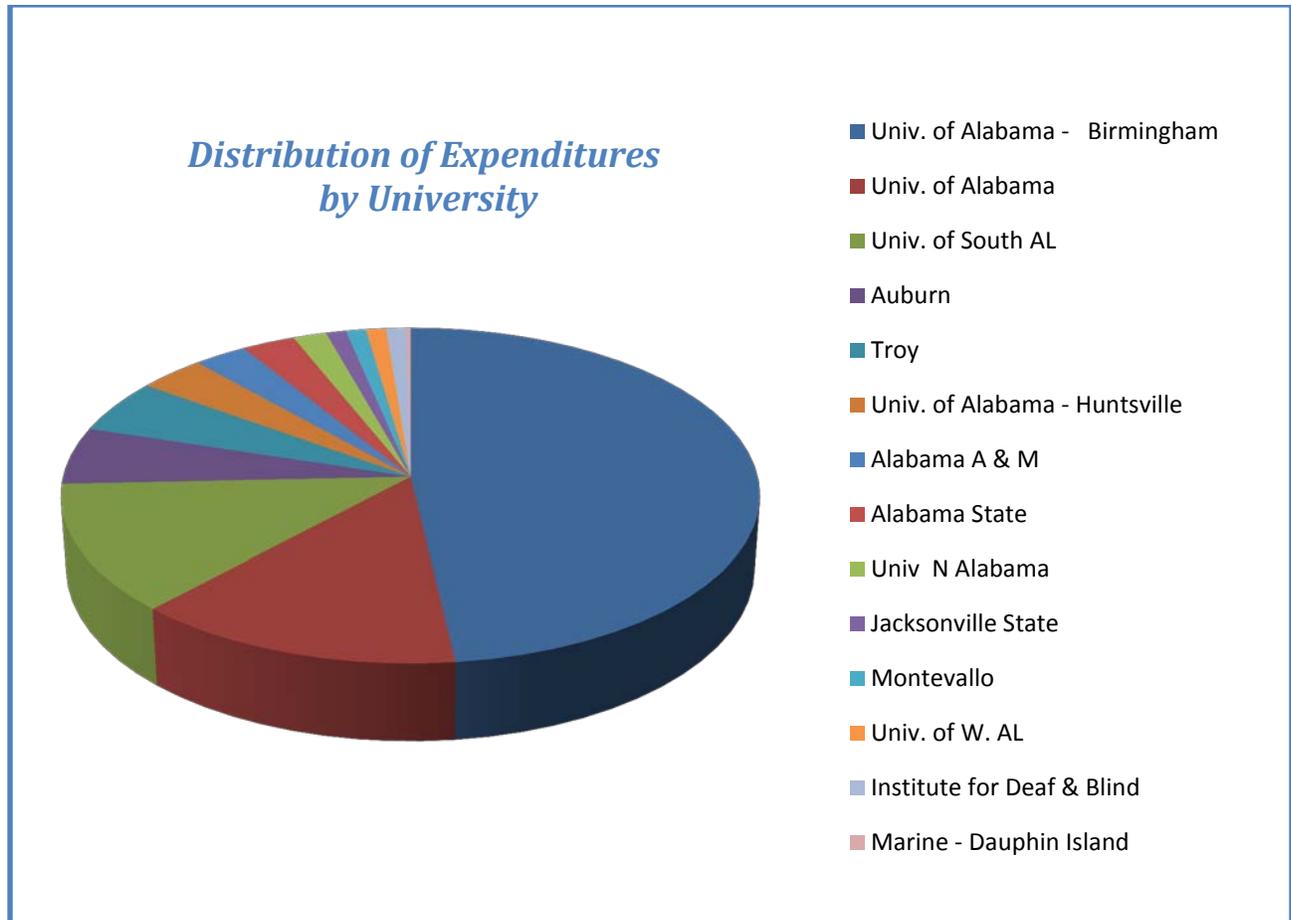
- Any payment in excess of amounts due;
- failure to meet eligibility requirements;
- failure to identify third party liability where applicable;
- any payment for an ineligible good or service;
- any payment for a good or service not received;



- duplicate payments;
- invoice and pricing errors;
- failure to apply discounts, rebates or other allowances;
- failure to comply with contracts or purchasing agreements, or both;
- failure to provide adequate documentation or necessary signatures, or both, on documents; or
- any other inadvertent error resulting in an overpayment.

### *Expenditures*

RAS' technology and data analysts reviewed a total of \$14.568 billion in expenditures from state universities and a total of \$1.18 billion from colleges and technical schools for non-medical related expenditures.





### ***Audit Exclusions***

The recovery audits excluded the Medicaid program (which is audited separately) and state payroll expenditures. In addition, intergovernmental transfers (for example, a state grant to a municipality or school district) were excluded since another unit of government is not a vendor or service provider. State agencies, the Public Education Employees' Health Insurance Plan and State Employees' Health Insurance Plan audits are covered in separate reports.

Auditors did not review any university restricted accounts such as scholarship funds. No personal student information was reviewed or released to auditors.

### ***Recovery Audit Methodology***

To begin the audit, EPA and RAS held meetings with key leadership of the universities and colleges in November of 2011 to review the recovery audit process and begin implementation. RAS provided the key officials with the *Alabama Accounts Payable Recovery Audit Guide* and the *Employee Benefits Recovery Audit Guide* for the universities that provide their own medical and pharmacy benefit programs. Both Guides detail the data and documentation required to perform each type of audit.

RAS worked closely with the EPA throughout the audit and held weekly phone meetings with EPA to report on the audit progress and discuss any issues that might arise.

Each higher educational institution operates its own accounting system. RAS secured a raw data download from each of the individual institutions. Auditors reviewed the results of the electronic analysis and selected specific transactions to personally conduct further on-site analysis and retrieve supporting documentation on those claims that were flagged as potential overpayments. The remaining analysis and follow up with vendors and service providers was conducted remotely.

### ***Recovery Audit Categories***

RAS has developed specific analytical tools and reporting mechanisms that enable it to perform recovery audits without disrupting current state system procedures or personnel. RAS' audit process includes examination of:

- agency financial transactions (excluding payroll),
- a statement audit to discover unused credits from vendors and service providers,
- Sales, Use and Utility Tax analysis to identify any exempted sales, use or utility taxes that were charged to the state inappropriately, and
- for the universities that provide employee health benefits directly, RAS was also charged with conducting an analyses of the medical and pharmacy transactions for accuracy and appropriateness of payments.

Recovery auditing is a process of elimination, whereby, the initial electronic analysis uses powerful software algorithms to analyze the raw data for potential overpayments. The analytical process involves



an initial step of data discovery and descriptive statistics. During this step, the data is brought into the system and the analyst runs a series of analyses to better understand the overall makeup of the data and assess the data set for completeness and quality. The analyst may also run processes to cleanse or enrich the data (such as eliminating vendor duplicates and matching/correcting vendor addresses) to make it more analytic ready.

Variations found during this step are evaluated to determine whether they are data errors or potential overpayments. The next step is to run a standard set of rules and irregularity detection models against the data. These models surface transactions that are unusual compared to what is expected. This process selects out all the clean transactions that do not indicate a potential overpayment, which is the vast majority of payments.

The same rigorous technological process was applied to all educational institutions. After the initial electronic analysis, RAS auditors review the results and determine which of the flagged claims require further examination.

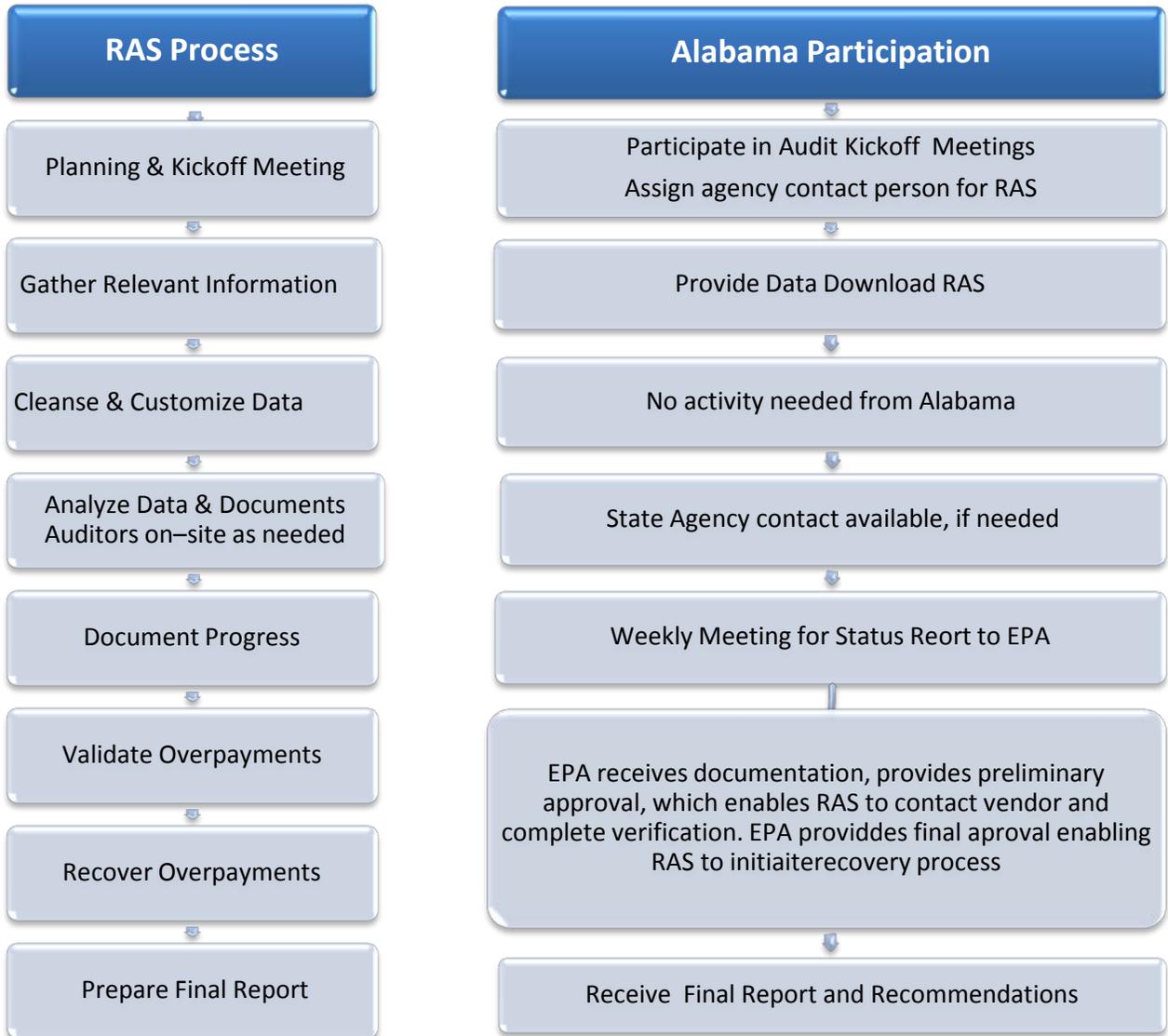
RAS' expert auditors examine the transaction and assemble supporting documentation that validates the payment in order to determine whether an overpayment occurred. Each overpayment, and its supporting documentation, is then presented to the EPA for preliminary approval before RAS proceeds to recover the funds for the State.

All recoveries from vendors and service providers are returned directly to the State and deposited in a special fund created by the State Legislature for this purpose. Once the State receives its repayment, it compensates RAS from a portion of those recovered funds.

The charts on the following two pages briefly depict the recovery audit process for non-medical audits and the level of participation between RAS and the state.

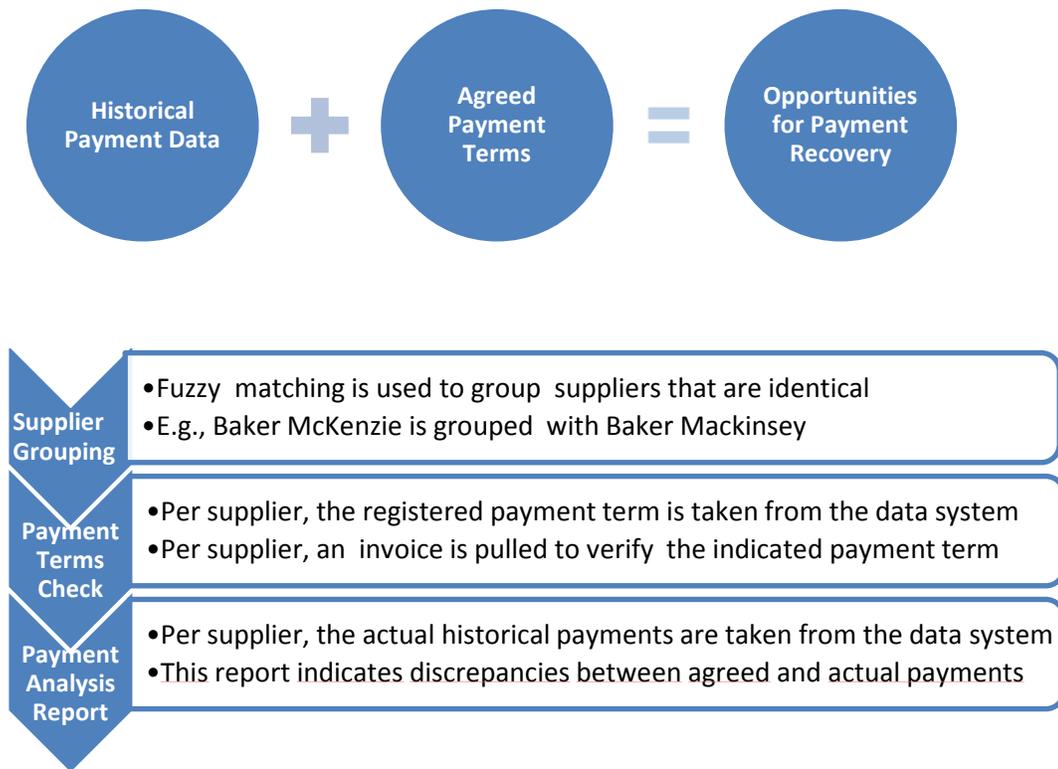


## *Eight-Step Accounts Payable Audit Process*





## Data Cleanse and Analysis Process



## Auditors Fieldwork in Alabama

Auditors developed a schedule for fieldwork at the universities based on level of transactions to review and geographic location of the universities and state agencies also being audited.

RAS assigned four auditors to perform onsite work at the universities to further investigate the flagged invoices and locate the supporting documentation needed to validate each overpayment. In total, the four auditors spent forty-five (45) weeks conducting fieldwork in Alabama at various educational institutions and large state agencies; an additional auditor worked remotely. Auditors continued follow-up activity with vendors and service providers once back at the office.

## Documentation Process

RAS presents each potential overpayment and its supporting documentation to the EPA for preliminary approval. Once preliminarily approved by EPA, RAS can contact the vendor/service provider to obtain any additional documentation from the vendor that might validate the appropriateness of the transaction. If the vendor has additional documentation that validates the appropriateness of the payment, auditors eliminate it as a finding. If not, when presented with documentation on the overpayment, almost all vendors concur with the finding. Occasionally, a vendor may protest repaying



an overpayment even after being presented with the documentation. This, however, did not occur with the non-healthcare transactions for the universities.

If the transaction is determined to be an overpayment, RAS presents the documentation to the EPA for final approval. Once RAS receives final approval, auditors request the vendor make its repayment to the state. Auditors follow up with vendors as needed until the state is repaid.

All recoveries from vendors and service providers are returned directly to the State for deposit in a special fund created by the State Legislature for this purpose. Once the State receives its repayment, it compensates RAS from a portion of those recovered funds.

RAS strives to be unobtrusive and not create additional work for state personnel at state agencies. RAS makes all the contacts with vendors and suppliers in order to validate the accuracy of payments our technology has flagged as having a potential overpayment.

### *Statement Audit*

In addition to the accounts payable audit, RAS performs a Statement Audit in order to identify any outstanding credits from prior disbursements that might be due to Alabama educational institutions. RAS mailed a request for a statement of accounts to 535 of the vendors with the largest transactions (number of transactions and dollar amount) serving the educational institutions.

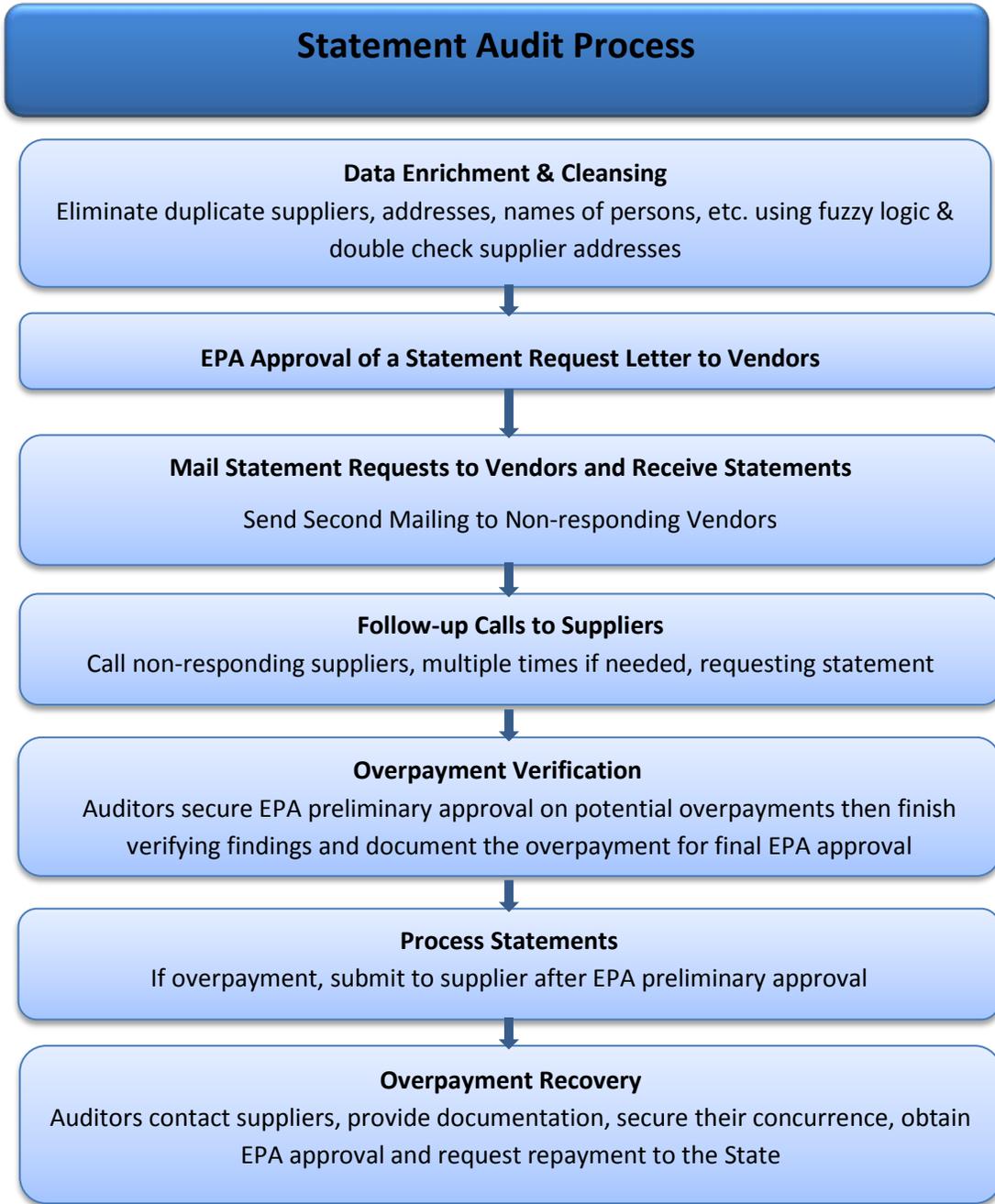
These vendors represented eighty percent of the expenditures subject to the audit. The mailing of the pre-approved letter was followed up with a second mailing to non-respondents. Then phone calls (multiple, if needed) were made to the remainder of vendors that did not respond to either mailed request.

RAS received approximately seventy-five percent of the vendor statements it requested. Many of these vendors do business with numerous educational institutions. The returned statements represented eighty percent of the dollars.

Typically, about ninety percent of requested statements are returned by vendors in a statement audit. Even after numerous requests from auditors, approximately twenty-five percent of those vendors did not comply with the statement audit request. Some vendors stated that they did not have to respond to a “third party request” even though a Letter of Authority on Alabama letterhead explaining that the State had retained RAS to perform the audit was provided to them twice with the written request and followed up with phone calls..

This was the first recovery audit the state has undertaken and Alabama’s vendors are not used to the process. A recovery audit education campaign might be useful to inform vendors on the new state requirements. It is important to remember that seventy-five percent of the state’s largest vendors, which account for eighty percent of the expenditures, did appropriately respond to the statement audit request.

The following chart shows the overall statement audit process.



Five auditors were assigned to the Accounts Payable (non-healthcare transactions) audits for the educational institutions. In total, four auditors spent 45 weeks on-site in Alabama at the various educational institutions and state agencies. For example, one of the auditors assigned to the education institutions personally visited 17 institutions and spent approximately two weeks at each institution researching potential claims. Another auditor worked remotely. Auditors spent significant additional time working on the audit before going onsite and afterwards.



## *Accounts Payable Audit Results for Educational Institutions*

Generally, Accounts Payable audits on non-medical expenditures typically recover from one one-hundredth (1/100) to three-one-hundredths (3/100) of one percent of expenditures.

No matter how well trained state personnel are, when dealing with so many external vendors some errors will occur. RAS' technology and data analysts reviewed a total of \$14.568 billion in expenditures from state universities and a total of \$1.18 billion from colleges and technical schools for non-medical related expenditures. This represents \$15.748 billion in payables. Upon examination by auditors, many of the overpayments and credits had been corrected by state personnel.

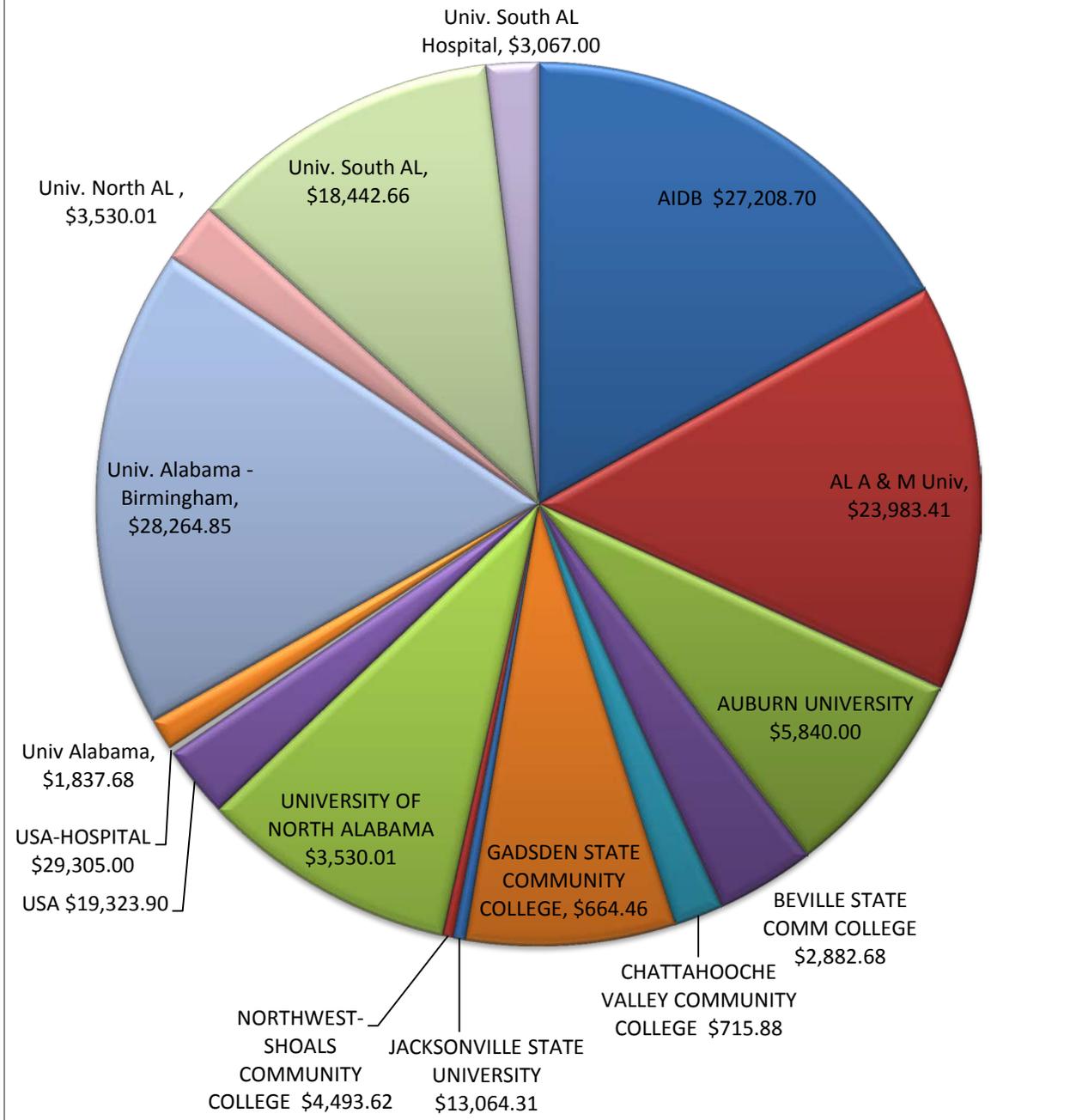
RAS identified, documented and recovered \$115,774.92 in overpayments from vendors and service providers from seventeen (17) public institutions of higher education. All of these overpayments have been recovered for the State.

RAS' observations during the recovery audit did not detect any material system weaknesses that would contribute to recurring overpayments. It appears that Alabama's higher educational institutions have adequate financial internal controls and procedures in place to prevent significant overpayments and to rectify most overpayments and outstanding credits.

Auditors found experienced and concerned employees operating and managing the accounts payable systems at the various educational institutions. The accounts payable staffs at the educational institutions were cooperative with the audit, with only a few exceptions. These exceptions are discussed in the Problems Identified section of the report.



### Overpayments & Recoveries for State Colleges and Universities





Auditors noted that the accounting systems provided significant checks and balances for state transactions, as did institutional procedures for staff that process the transactions. Additionally, auditors encountered a stable workforce with long-term well trained state staff, operating and managing the accounts payable systems at the various agencies.

RAS sincerely appreciates the responsiveness and professionalism that Alabama's educational institution employees exhibited throughout the recovery audit process.

### *Overpayments Identified and Recovered*

There is a minimum 90 day period before any transactions can be examined by RAS auditors. This allows state personnel the opportunity to discover and correct any overpayments that may occur. No matter how well trained and diligent state personnel are, when dealing with so many external vendors some errors will occur.

The attention paid to fiscal operations by state personnel is reflected in the fact that many of the overpayments and credits that were identified and examined by the software data analysis had already been corrected by state personal.

As a result of state employee follow up on transactions and credits, few outstanding overpayments were validated for recovery at educational institutions for fiscal years 2009 through 2011. RAS identified, documented and recovered \$115,774.92 in overpayments from vendors and service providers from seventeen (17) public institutions of higher education. All of these overpayments have been recovered for the State.

There is one additional overpayment that will not be recovered for the state: a 2010 duplicate payment in the amount of \$10,590 for the University of Alabama at Birmingham. The vendor could not be located and has, therefore, presumably gone out of business.

One claim for \$1,425.00 at Jacksonville State University was denied for RAS recovery because the auditor mistakenly contacted the vendor to validate the overpayment before he had received preliminary approval from EPA (which is RAS' typical audit process, but not how it should have been done for Alabama). That claim was one of the early findings. That claim is not included in the total amount recovered for the Special Fund, although it is highly likely that having been notified by RAS of the overpayment and provided the documentation, the university followed up and collected the refund.

In addition, as a result of RAS' identification and documentation, \$2,200 was recovered by Northeast Alabama Community College. These funds are not included in the totals recovered either because they were from restricted funds. The university appropriately returned the recovered amount to its restricted fund.

Overall, Alabama's higher education institutions recovery rate is in line with today's generally anticipated accounts payable recovery rate on non-medical expenditures of from one one-hundredth (1/100) to three-one-hundredths (3/100) of one percent of expenditures.



The following chart details the findings and recoveries for the universities and colleges by reason for the overpayment. Only those educational institutions with overpayments are shown in the chart.

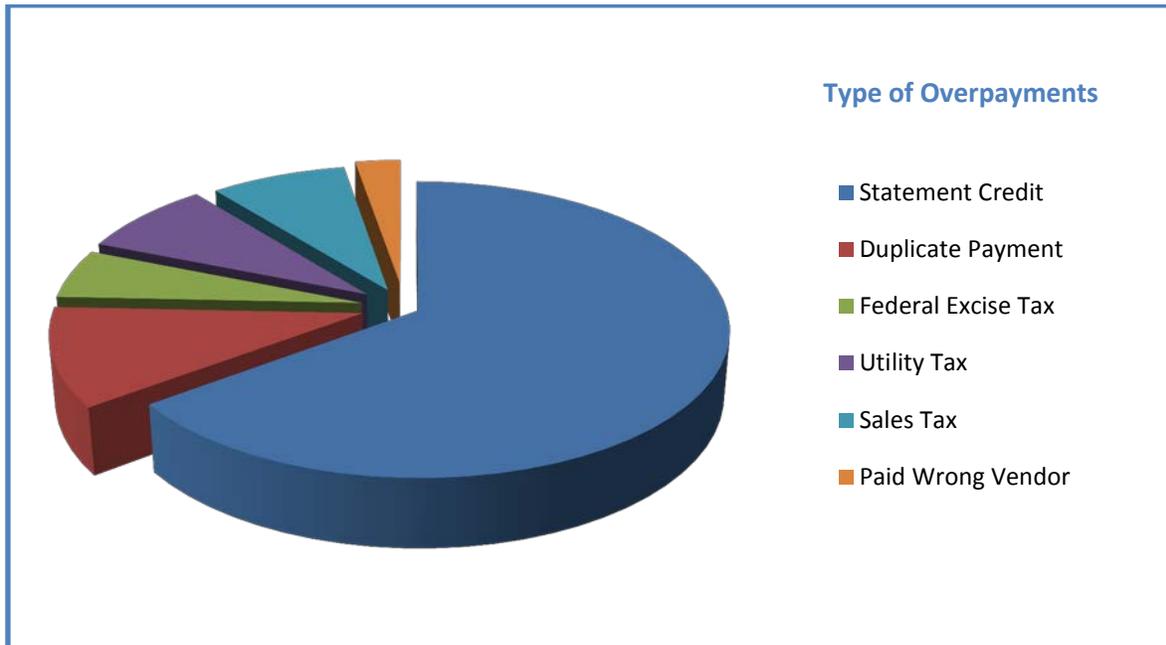
***University & College AP Recoveries by Reason for Overpayment***

<b>Educational Institution</b>	<b>Reason for Overpayment</b>	<b>Overpayment Amount</b>	<b>Total Recovery</b>
Alabama A&M University	Excess Utility Tax	\$23,983.41	<b>\$23,983.41</b>
Alabama Institute for the Deaf and Blind	Statement credit	\$8,186.93	<b>\$27,208.70</b>
	Statement credit	\$1,662.72	
	Statement credit	\$16,959.45	
	Statement credit	\$399.60	
Alabama Southern Community College	Statement Credit	\$1,051.31	<b>\$1,051.31</b>
Alabama State University	State sales tax	\$1,151.69	<b>\$12,434.24</b>
	Statement credit	\$4,080.57	
	Statement credit	\$2,721.98	
	Statement credit	\$4,480.00	
Auburn University	Paid wrong vendor	\$5,840.00	<b>\$5,840.00</b>
Bevill State University	Sales tax	\$706.53	<b>\$2,882.68</b>
	Statement credit	\$448.15	
	Statement credit	\$1,728.00	
Calhoun Community College	Excess Utility Tax	\$12,265.70	<b>\$12,265.70</b>
Chattahoochee Valley Community College	Statement credit	\$715.88	<b>\$715.88</b>
Gadsden State University	Statement credit	\$664.46	<b>\$664.46</b>
Jacksonville State University	Excess Utility Tax	\$15,069.19	<b>\$15,069.19</b>
Northwest Shoals Community College	Federal Excise Tax	\$756.99	<b>\$4,191.78</b>
	Sales tax	\$3,434.79	
Troy State University	Statement credit	\$381.00	<b>\$381.00</b>
University of Alabama	Statement credit	\$1,837.68	<b>\$1,837.68</b>
University of Alabama at Birmingham	Duplicate payment	\$2,487.38	<b>\$28,264.85</b>
	Duplicate payment	\$8,400.68	
	Statement credit	\$8,742.94	
	Statement credit	\$8,633.85	
University of North Alabama	Federal Excise Tax	\$2,255.01	<b>\$3,530.01</b>
	Statement credit	\$1,275.00	
	Statement credit	\$4,080.57	
	Statement credit	\$2,721.98	



	Statement credit	\$4,480.00	
University of South Alabama	Statement credit	\$2,770.53	<b>\$18,442.66</b>
	Statement credit	\$1,440.83	
	Statement credit	\$12,361.80	
	Duplicate payment	\$1,569.00	
	Duplicate payment	\$300.50	
University of South Alabama Hospital	Statement credit	\$3,067.00	<b>\$3,067.00</b>
<b>Grand Total for all Institutions</b>			<b>\$115,774.92</b>

### *Proportion of Recoveries by Cause of Overpayment*



## *Problems Identified for Accounts Payable Transactions*

### *Vendor Compliance*

The one area of concern RAS notes is that not all state vendors and service providers cooperated with the statement audit requests, which is needed in order to identify any outstanding credits. Only about 75 percent of the vendors responded, even after multiple requests from auditors.

The typical response rate from vendors and service providers at other audits RAS has performed is more than 90 percent. Vendors and service providers under contract to the State have a duty to return overpayments and to cooperate with the state's payment accountability process. The majority of recoveries were from outstanding credits due to the educational institutions. The state probably would have benefited from additional recoveries had the other twenty-five percent of vendors complied with the statement request. It is customary for RAS to perform the audit and not impose on its client to do



follow up with numerous vendors for amounts that usually are not material. Either an education process or requiring vendor compliance (or both) might benefit the process going forward.

### *Cooperation of State Personnel*

The vast majority of state personnel were a genuine pleasure with which to work. They were helpful and contributed to a positive working relationship for the auditors while on-site.

Auditors, however, did encounter obstacles with certain non-supportive staff. An overarching issue that was expressed is that the recovered funds do not get returned to the original institution. For some personnel there was a negative attitude toward auditors because certain individuals felt like the auditors were there to “take their money.” Most likely, this perception stems from the fact that recovered funds are returned to a special fund instead of the educational institution. This sentiment was expressed in other areas of the recovery audits as well.

**University of Alabama (Tuscaloosa):** Key personnel stated they had no prior knowledge that the audit might require fieldwork in order for an auditor to document a transaction; access to needed records was delayed and approval of findings was slow. Auditors reported an unpleasant work environment. The EPA and RAS had informed the institutions of higher education on the recovery audits at the beginning of the process.

**Institute for the Deaf and Blind:** At the initial meeting with a client the auditor inquires whether there are any outstanding payments or credits known to the client. Auditors have no interest in duplicating work that a client is already working to resolve. A key person became very unpleasant about auditors conducting the statement audit to recover outstanding credits.

**University of South Alabama:** Upset from the beginning that we were "taking their money" and "did not want us there" as the accounting director put it. Again, I'll get a name if you need it.

**University of Alabama- Birmingham:** The financial staff people were all helpful and cooperative, but the Legal Department delayed fieldwork by requiring approval of every vendor getting a statement request, and rewriting that letter.

These situations probably did not affect the dollar amount of recoveries. Rather they made a difficult working environment and in some cases delayed auditor fieldwork by a few days. Had auditors been there to recover funds for the institution, instead of for the special funds, those staff might have exhibited a supportive attitude instead.



### *Recommendations for Accounts Payable Transactions*

- Scan purchase orders and invoices into the Central Accounting System in order to allow for a more thorough and timely recovery audit to be conducted for the state.
- Include a mandatory provision in the State’s master contract and purchase orders specifying that all vendors and service providers under contract with the state shall comply with audits mandated by the state.
- Require vendors and service providers to provide the requested information and/or data required for an audit on behalf of the state within thirty (30) days.
- Require vendors and service providers to repay documented overpayments and credits to the state within thirty (30) days.
- Consider charging Lost Interest Income as an incentive for vendors and service providers to repay funds timely.
- Consider establishing a financial penalty for vendors and service providers that do not comply with the request for information or timely repayment.
- Require original invoices from vendors and service providers in order to issue a payment from the state.
- Require unrestricted audit rights for the State.

### *Health Benefits Recovery Audit Overview*

Six of Alabama’s public universities provide their own self-insured employee health benefit programs. This means they cover all costs and engage a healthcare administrator company to administer the plan and process the claims. The remaining educational institutions are covered under the Public Education Employees’ Health Insurance Plan.

Blue Cross Blue Shield of Alabama (BCBSAL) is the Third Party Administrator (TPA) retained by the six self-insured universities to administer the health care benefits programs and process state payments properly on its behalf. BCBSAL also serves as the Pharmacy Benefit Manager (PBM) for five of the six following universities.

The University of Alabama at Birmingham uses BCBSAL as its TPA, but has CVS/Caremark as its BPM.



TPAs and PBMs operate under the aegis of each state university's plan administrator under a contract with the university called an Administrative Service Agreement (ASA). The following universities provide their own employee health care benefits programs.

- **Auburn University** uses BCBSAL as its TPA and PBM.
- **Troy University** uses BCBSAL as its TPA and switched from Welldyne as its PBM to BCBSAL; signing a new ASA with BCBSAL as its PBM on April 6, 2012, retroactive to January 1, 2011.
- **University of Alabama (UA)** UA & UAH operate under a joint ASA with BCBSAL. UA uses BCBSAL as its TPA and PBM.
- **University of Alabama at Huntsville (UAH)** UA & UAH operate under a joint ASA with BCBSAL. UAH uses BCBSAL as its TPA and PBM.
- **University of Alabama at Birmingham (UAB)** UA uses BCBSAL as its TPA engaged CVS/Caremark as its PBM.
- **University of South Alabama (USA)** uses BCBSAL as its TPA and PBM.

Implementation of the audits were delayed by numerous and redundant non-disclosure agreements required by BCBSAL and objections raised by some health plans regarding whether the audits were allowed under the Health Insurance Portability and Accountability Act (HIPAA). RAS sought clarification from the federal agency that administers and enforces HIPAA so the audits could proceed, but these two issues delayed the audits' starts by months.

### ***Methodology for Pharmacy Audit***

As previously noted, RAS met with university leadership and provided the Audit Guide, which details the data and documentation needed to conduct the audit. For pharmacy claims, first RAS reviews the Administrative Services Agreement (ASA), all amendments to it, other pricing documents and which medications are restricted and which medications are covered on special lists called formularies. RAS examines all relevant documents in order to build a duplicate claims processing system as that used by the PBM to process each prescription. Costs for prescription medications change frequently and RAS has a data base containing the cost for each medication, by day, going back to the year 2000. This enables RAS to re-price millions of pharmacy transactions for accuracy according to the price on the day that prescription was filled and according to the contract requirements.

In addition to re-pricing each prescription for accuracy, RAS examines the fees charged to the plans to determine if they comply with the ASA provisions. A major factor in the universities' pharmacy benefit program is the overall fees they pay to the PBM to manage pharmacy benefits for the university. RAS identified significant overcharges in the administrative fees being charged to each university served by BCBSAL.



### ***Medical Claims Audit***

RAS' audit schedule was to complete the medical claims audit for the two largest plans, Public Education Employees' Health Insurance Plan and the State Employees' Health Insurance Plan, then, begin the recovery audits for the universities.

Over more than a two-year span, BCBSAL, which is the TPA for all eight of Alabama's medical plans, has refused to agree to a full recovery audit as authorized by Alabama Statute 2011-703. This has prevented RAS from performing the medical claims recovery audit for the universities to date.

BCBSALs position is that the limited sample audit contained in the ASA between it and the various plans governs the audit, not Alabama Act 2011-703 which authorizes the recovery audits. The Request for Proposal (RFP) to implement the recovery audits called for comprehensive recovery audit, not sample audits.

The law specifies that the recovery audits are to be performed on a contingency fee basis. This means the audit firm conducts the work and recovers the funds, which are paid directly to the state. The auditor is only compensated by a small percentage of the funds it recovers for the state. The auditor assumes all the financial risk and trusts that it will receive the necessary data and documentation to do its work. Contingency-based audits are not feasible to conduct on a small sample of expenditures.

In passing this law the Legislature granted broad authority to the Examiners of Public Accounts (EPA) to implement the recovery audits. The Code of Alabama 1975, Section 41-5-6.1 permits the Chief Examiner to obtain *"...any payment related information as determined by the Chief Examiner, including any confidential information, that is necessary for the performance of the audit or the recovery audit of an overpayment."*

EPA and RAS have disagreed that with BCBSALs position that the recovery audit scope is limited by the terms of the ASA. The legislative intent of cost containment, aimed at reducing improper payments and identifying process improvements where state monies are expended, is clear. In the auditor's opinion, it is well established law in Alabama that a contract "adverse to the enactments of the legislature, is illegal and void" *Perdue v Green*, 2012 WL 887492 (Ala. 2012), citing *Carrington v Caller*, 2 Stew. 175, 192 (Ala. 1829) (citing *Wheeler v. Russell*, 17 Mass. 258 (1821)).

### ***Pharmacy Benefits Recovery Audit Overview***

#### ***Administrative Service Agreements (ASA)***

TPA's and PBMs' services performed for plan administrators are governed by the terms of an ASA, entered into with each plan. The ASA is the contract between the TPA/PBM and the respective state plan. A TPA/PBM's work also is governed by all applicable state and federal laws, including Alabama Act 2011-703, and in accordance with its fiduciary duties to the State and the public.

The ASA specifies the exact allowable administrative fees the TPA or PBM can charge and will be paid for its services. BCBSAL does not break out how the fees are allocated in its ASAs between medical and



pharmacy benefit services for the universities, all charges are included in the administrative fee for provision of “health” services.

None of the ASAs provide for any additional administrative fees that can be levied against the plans. Likewise, none of the ASAs specify that any drug manufacturer’s rebates for the plans can be retained as an additional administrative fee. Two key factors are contained in the ASA:

- Administrative fees charged to the plans are specified in the ASAs, and
- The ASAS specify that that so long as drug manufacturers provide rebates, BCBSAL will credit those rebates to the plans, as offsets to the cost of the prescription drugs filled by Alabama’s employees.

In April 2010, BCBSAL acquired a seventeen percent ownership interest in Prime Therapeutics (Prime) and BCBSAL’s CEO, became and remains a member of Prime’s Board of Directors. Prime is wholly owned by thirteen Blue Cross Blue Shield organizations, including BCBSAL. Effective July 1, 2010 BCBSAL subcontracted with Prime Therapeutics to provide its PBM services for Alabama’s health benefit plans.

Once the universities were transferred from BCBSAL/PCSI to BCBSAL/Prime, a significant amount of each university’s drug manufacturer rebates began being unknowingly withheld.

**The unauthorized, and undisclosed, withholding as an additional administrative fee amounted to a total of \$1,090,275 over eighteen months for the five universities.**

The way BCBSAL obtained the additional administrative fee without the universities knowledge was to withhold a significant amount of universities’ drug manufacturers’ rebates. These rebates are earned based on the amount of that manufacturer’s drug purchased by university employees. The income from the rebates is supposed to be credited to the universities to offset the overall cost of its prescription purchases.

BCBSAL and Prime have both consistently, and exclusively, referred to these withheld funds as an administrative fee. In the auditor’s opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged or withheld from funds due to the universities.

It is important to note that this is an *Administrative Fee*. The rebates are the *mechanism* by which BCBSAL/Prime obtained the additional Administrative Fee without informing the universities. The ASA does not provide for any additional administrative fees, whether by withholding drug manufacturers’ rebates or any other unspecified mechanism.

BCBSAL never discussed that any rebates would be withheld for any reason with the universities.

BCBSAL continued to charge its full administrative fee to the university, which included PBM services, when it transitioned the universities Prime from PCSI and started to withhold undisclosed rebate funds as an additional administrative fee.



The way BCBSAL provided PBM services to the universities, by subcontracting to a PBM, did not change. The company BCBSAL used to provide the PBM services, however, did change. During the audit period, and to date, BCBSAL subcontracted its PBM services provided to the universities as follows:

- Preferred Care Services, Inc (PCSI), a wholly owned subsidiary of BCBSAL, prior to June 30, 2010.
- On July 1, 2010, BCBSAL transitioned its PBM contract to Prime Therapeutics, which is wholly owned by thirteen BCBS organizations, including BCBSAL (and began withholding rebate funds).
- The language in the Administrative Fee and the Rebate sections of the ASA were not amended with the transition from PCSI to Prime.

Alabama's employee benefit plans were informed of the change through an April 5, 2010, press release that their PBM services would be transitioned to Prime on July 1, 2010. No mention was made of any change in pricing for Alabama's employee benefit programs as a result of BCBSAL subcontracting with a different PBM company.

RAS and the Deputy Attorney General met with (in person or by phone) and confirmed with relevant staff at each university that none of the universities were informed of the withholding, nor did any of them authorize it. Each university thought that it was continuing to receive one-hundred percent of its drug manufacturer rebates.

In addition to meeting with relevant employee benefits staff, RAS contacted the President and General Counsel of each university and received written confirmation from Auburn University, University of Alabama and University of Alabama at Huntsville and University of South Alabama that each university was not informed that its funds were being withheld and none of them had approved of the withholding as an additional administrative fee. As of this writing, RAS has not received the written response from the President of Troy University, but has been told it will be sent soon.

**The unauthorized, and undisclosed, withholding as an additional administrative fee amounted to a total of \$1,090,275 over eighteen months for the five universities.**

The chart on the following page compares the ASA language prior to RAS reporting the additional fee to the universities and the language BCBSAL inserted afterward.



***Comparison of BCBSAL ASA Language for the Universities’ Effective during the Audit Period and After RAS Reported the Undisclosed Additional Administrative Fees***

Each ASA specifies the exact allowable administrative fees the TPA/ PBM can charge for its services. BCBSAL does not break out its fee allocation between medical and pharmacy benefits services, all charges are included under the administrative fee for provision of “health” services. None of the ASAs state that rebates can be withheld as additional administrative fees. Following is the language from the ASA regarding manufacturer’s’ rebates

Prior to RAS’ Disclosure of Additional Administrative Fees	After RAS’ Disclosure of Additional Administrative Fees
<p><b>Effective ASA Language During Audit for:</b></p> <ul style="list-style-type: none"> <li>▪ AUBURN</li> <li>▪ UA/UAH</li> <li>▪ TROY &amp; USA (after “any individual claim.” at the end of the last sentence below, <b>added</b> “or reduce the Administrative Charges.”)</li> </ul>	<p><b>2012 ASA Language Change</b></p> <ul style="list-style-type: none"> <li>▪ AUBURN</li> <li>▪ UA/UAH</li> <li>▪ Troy</li> <li>▪ USA</li> </ul> <p>After RAS reported the undisclosed fees in 2012, the universities negotiated new ASA’s with BCBSAL that exchanged various administrative fee concessions for new language on rebates starting in 2012. <b>Changes to the rebate language are shown below in bold type.</b></p>
<p><u>4. Prescription Drug Rebates</u> —</p> <p>Many manufacturers of prescription drugs currently provide volume rebates on their drugs, which the Claims Administrator passes on to the Plan. While there is no guarantee that the rebates will continue, as long as the rebate programs exist, the rebates will be credited towards the Cost of Claims in the next billing cycle after the Claims Administrator receives them. In no case will the rebates alter the paid amount of any individual Claim.</p>	<p><u>4. Prescription Drug Rebates</u> — <b>The Claims Administrator contracts with a Pharmacy Benefits Administrator (PBM) to provide PBM services.</b> Many manufacturers of prescription drugs currently provide volume rebates on their drugs <b>to the PBM, a portion of which the PBM passes onto</b> the Claims Administrator <del>passes on to the Plan.</del> While there is no guarantee that the rebates will continue, as long as the rebate programs exist, <b>100% of the rebates received by the Claims Administrator from the PBM</b> will be credited towards the Cost of Claims in the next billing cycle after the Claims Administrator receives them. In no case will the rebates alter the paid amount of any individual Claim.</p>



## *Health Benefit Recovery Audit Results by University*

None of the ASAs between BCBSAL and the universities contain any prescription drug discount price guarantees, which is unusual. It is common for an ASA to contain specified discount prices that the PBM guarantees it will meet. Favorable ASA language would specify that the PBM would “meet or exceed” certain discount price guarantees; that way if a better price is obtained, the plan, which pays all the costs, benefits, instead of the PBM.

**The full impact of the potential loss, if any, to Alabama on its employee’ prescription payments remains unknown. Without discount price guarantees in the ASA there is no benchmark to audit against to determine if accurate prices were paid for employees’ prescriptions.**

When millions of prescriptions are filled, even small amounts in overcharges can quickly add up. Due to the lack of price guarantees RAS was unable to conduct a recovery audit on the prescription claim expenditures. The plans remain fully responsible for covering the cost of the prescription drugs, not the PBM. Discount and price guarantees are a common feature that would be of benefit to the health plans.

Each ASA also spells out all charges to the plan, specifically the administrative fees paid to the PBM.

Following is a summary of RAS’ findings for each of the six university plans’ health benefit programs.

### *Auburn University*

#### ***Pharmacy Benefit Audit***

Auburn University was not provided any discount or price guarantees by BCBSAL in their agreement. Therefore, there was no pricing/discount benchmark to audit against in order to validate whether prescriptions for the university were accurately paid or not.

The Administrative Services Agreement (ASA) executed in 2007, and automatically renewed for an additional three years, contains language which specifically details the only administrative fees authorized under the ASA.

Under the terms of the 2007 ASA with Auburn, BCBSAL agreed to serve as the pharmacy benefit manager (PBM) and to provide this service as part of its transparent pricing arrangement to be charged to Auburn for its health related benefits, including pharmacy benefit management. Under the terms of this agreement, drug rebates received from manufacturers were to be provided to Auburn.

However, during the third quarter of 2010, BCBSAL entered into an agreement with Prime Therapeutics (Prime), which transferred BCBSAL’s pharmacy benefit program to Prime. At that time, unbeknownst to Auburn, Prime began withholding a significant portion of the drug manufacturer rebates that were due to Auburn as an additional administrative fee.

**The audit revealed that BCBSAL/Prime charged Auburn additional, unauthorized and undisclosed administrative fees totaling \$382,972 beyond those specified in its ASA over an 18 month period.**



**In the auditor’s opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged and withheld from funds due to the university. University officials have confirmed to RAS and the Deputy Attorney General for the Examiner that the university was not informed of this additional administrative fee and it did not authorize it.**

***Medical Claims Audit***

RAS’ audit schedule was to complete the medical claims audit for the two largest plans, Public Education Employees’ Health Insurance Plan and State Employees’ Health Insurance Plan, then, begin the medical recovery audits for the universities. Over more than a two-year span, BCBSAL, which is the TPA for all eight of Alabama’s medical plans, has not agreed to a full recovery audit as authorized by Alabama Statute; this prevented RAS from performing the medical claims recovery audit for Auburn.

***Recommendations for Auburn University Pharmacy & Medical Payments***

- Include prescription discount and price guarantees in future ASA agreements, which are commonly utilized in the industry.
- Amend the current ASA to include discount price guarantees for the university.
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive recovery audit as authorized by Alabama Act 2011-703, which would include a full recovery audit of Auburn’s medical benefits.
- Amend the ASA to include unrestricted audit rights for the state.



## *University of Alabama (UA)*

UA & UAH operate their employee benefit programs under a joint ASA agreement with BCBSAL.

### ***Pharmacy Benefit Audit***

University of Alabama (UA) was not provided any discount or price guarantees by BCBSAL in their agreement. Therefore, there was no pricing/discount benchmark to audit against in order to validate whether prescriptions for the university were accurately paid or not. Discount and price guarantees are commonly utilized in the industry and it is highly recommended that they be included in ASA agreements.

The Administrative Services Agreement (ASA) executed in 2007, and automatically renewed for an additional three years, specifically details the only administrative fees authorized under the ASA.

Under the terms of the 2007 ASA with UA, BCBSAL agreed to serve as the pharmacy benefit manager (PBM) and to provide this service as part of its transparent pricing arrangement to be charged to UA for its health related benefits, including pharmacy benefit management. Under the terms of this agreement, drug rebates received from manufacturers were to be provided to UA.

However, during the third quarter of 2010, BCBSAL entered into an agreement with Prime Therapeutics (Prime), which transferred BCBSAL's pharmacy benefit program to Prime. At that time, unbeknownst to UA, Prime began withholding a significant portion of the drug manufacturer rebates that were due to UA as an additional administrative fee.

During the transition, UA inquired of BCBSAL regarding what would change for UA and UAH as a result of the transition and received written confirmation that ***“Additionally, your current benefit design, claims processing, formularies, rebates, and clinical programs will not change as a result of this transition.”***

Recovery Audit Specialists (RAS) has repeatedly requested that BCBSAL identify any ASA language that authorized an additional Administrative Fee. However, to date, no contractual language that authorizes this additional fee has been presented by BCBSAL.

**The audit revealed that BCBSAL charged the University of Alabama additional, unauthorized and undisclosed administrative fees totaling \$281,030 beyond those allowed in its ASA over an 18 month period.**

**In the auditor's opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged and withheld from funds due to the university. The university has confirmed to RAS and the Deputy Attorney General for the Examiner that the university was not informed of this additional fee and it did not authorize it. The University thought that it was receiving all of its drug manufactures' rebates.**

### ***Medical Claims Audit***

RAS' audit schedule is to complete the medical claims audit for the two largest plans, Public Education Employees' Health Insurance Plan and State Employees' Health Insurance Plan, then, begin the recovery audits for the universities. Over more than a two-year span, BCBSAL, which is the TPA for all eight of



Alabama's medical plans, has not agreed to a full recovery audit as authorized by Alabama Statute; this has prevented RAS from performing the medical claims recovery audit for UA to date.

### *Recommendations for University of Alabama Pharmacy & Medical Payments*

- Include prescription discount and price guarantees in future ASA agreements, which are commonly utilized in the industry.
- Amend the current ASA to include discount price guarantees for the university.
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive recovery audit as authorized by Alabama Act 2011-703, which would include a full recovery audit of Auburn's medical benefits.
- Amend the ASA to include unrestricted audit rights for the state.



## *University of Alabama at Huntsville (UAH)*

UA & UAH operate their employee benefit programs under a joint ASA agreement with BCBSAL.

### ***Pharmacy Benefit Audit***

University of Alabama at Huntsville (UAH) was not provided any discount or price guarantees by BCBSAL in their agreement. Therefore, there was no pricing/discount benchmark to audit against in order to validate whether prescriptions for the university were accurately paid or not. Discount and price guarantees are commonly utilized in the industry and it is highly recommended that they be included in ASA agreements.

The Administrative Services Agreement (ASA) executed in 2007, and automatically renewed for an additional three years, specifically details the only administrative fees authorized under the ASA.

Under the terms of the 2007 ASA with UAH, BCBSAL agreed to serve as the pharmacy benefit manager (PBM) and to provide this service as part of its transparent pricing arrangement to be charged to UAH for its health related benefits, including pharmacy benefit management. Under the terms of this agreement, drug rebates received from manufacturers were to be provided to UAH.

However, during the third quarter of 2010, BCBSAL entered into an agreement with Prime Therapeutics (Prime), which transferred BCBSAL's pharmacy benefit program to Prime. At that time, unbeknownst to UAH, Prime began withholding a significant portion of the drug manufacturers' rebates that were due to UAH.

During the transition, UA inquired of BCBSAL regarding what would change for UA and UAH as a result of the transition and received written confirmation that ***"Additionally, your current benefit design, claims processing, formularies, rebates, and clinical programs will not change as a result of this transition."***

Recovery Audit Specialists (RAS) has repeatedly requested that BCBSAL identify any ASA language that authorized any additional Administrative Fee. However, to date, no contractual language that authorizes this additional fee has been presented by BCBSAL.

**The audit revealed that BCBSAL charged the University of Alabama at Huntsville additional, unauthorized and undisclosed administrative fees totaling \$74,376 beyond those allowed in its ASA over an 18 month period.**

**In the auditor's opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged and withheld from funds due to the university. The university has confirmed to RAS and the Deputy Attorney General for the Examiner that the university was not informed of this additional fee and it did not authorize it. The University thought that it was receiving all of its drug manufactures' rebates.**

### ***Medical Claims Audit***

RAS' audit schedule is to complete the medical claims audit for the two largest plans, Public Education Employees' Health Insurance Plan and State Employees' Health Insurance Plan, then, begin the recovery audits for the universities. Over more than a two-year span, BCBSAL, which is the TPA for all eight of



Alabama's medical plans, has not agreed to a full recovery audit as authorized by Alabama Statute; this has prevented RAS from performing the medical claims recovery audit for UAH to date.

### *Recommendations for University of Alabama at Huntsville Pharmacy & Medical Payments*

- Include prescription discount and price guarantees in future ASA agreements, which are commonly utilized in the industry.
- Amend the current ASA to include discount price guarantees for the university.
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive recovery audit as authorized by Alabama Act 2011-703, which would include a full recovery audit of Auburn's medical benefits.
- Amend the ASA to include unrestricted audit rights for the state.



## *University of South Alabama (USA)*

### **Pharmacy Benefit Audit**

University of South Alabama (USA) was not provided any discount or price guarantees by BCBSAL in their agreement. Therefore, there was no pricing/discount benchmark to audit against in order to validate whether prescriptions for the university were accurately priced or not. Discount and price guarantees are commonly utilized in the industry and it is highly recommended that they be included in ASA agreements.

The Administrative Services Agreement (ASA) executed in 2010 specifically details the only administrative fees authorized under the ASA.

Under the terms of the 2010 ASA with USA, BCBSAL agreed to serve as the pharmacy benefit manager (PBM) and to provide this service as part of its transparent pricing arrangement to be charged to USA for its health related benefits, including pharmacy benefit management. Under the terms of this agreement, drug rebates received from manufacturers were to be provided to USA.

However, during the third quarter of 2010, BCBSAL entered into an agreement with Prime Therapeutics (Prime), which transferred BCBSAL's pharmacy benefit program to Prime. At that time, unbeknownst to USA, Prime began withholding a significant portion of the drug manufacturers' rebates that were due to USA.

Recovery Audit Specialists (RAS) has repeatedly requested that BCBSAL identify ASA language that authorized any additional Administrative Fee. However, to date, no contractual language that authorizes this additional fee has been presented by BCBSAL.

BCBSAL and Prime have both consistently, and exclusively, referred to these withheld funds as an administrative fee. In the auditor's opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged or withheld from funds due to the university.

It is important to note that this is an *Administrative Fee*. The rebates are the *mechanism* by which BCBSAL/Prime obtained the additional Administrative Fee without informing USA. The ASA does not provide for any additional administrative fees, whether by withholding drug manufacturers' rebates or any other unspecified mechanism.

BCBSAL never discussed that any rebates would be withheld for any reason with the university. The way BCBSAL provided PBM services to the university, by subcontracting to a PBM, did not change. The company BCBSAL used to provide the PBM services, however, did change. During the audit period, and to date, BCBSAL subcontracted its PBM services provided to the university as follows:

- Preferred Care Services, Inc (PCSI), a wholly owned subsidiary of BCBSAL, prior to June 30, 2010.
- On July 1, 2010, BCBSAL transitioned its PBM contract to Prime Therapeutics, which is wholly owned by thirteen BCBS organizations, including BCBSAL (and began withholding rebate funds).
- The language in the Administrative Fee and the Rebate sections of the ASA were not amended with the transition from PCSI to Prime.

BCBSAL continued to charge its full administrative fee to the university, which included PBM services, when it transitioned USA to Prime from PCSI and started to withhold undisclosed rebate funds as an



additional administrative fee. That meant that while the university was knowingly paying BCBSAL the administrative fee specified in its ASA to cover its PBM services, it was also unknowingly being charged a second unauthorized administrative fee for PBM services by Prime through withholding drug manufacturers' rebates due USA.

**The audit revealed that BCBSAL charged the University of South Alabama additional, unauthorized and undisclosed administrative fees totaling \$297,564 beyond those allowed in its ASA. BCBSAL has not reimbursed these fees to date. USA did use the findings from RAS' audit as leverage to negotiate a lower administrative fee with BCBSAL and made the contract retroactive to January 1, 2012**

**In the auditor's opinion, no contractual language exists that authorizes any additional, undisclosed Administrative Fee to be charged and withheld from funds due to the university. The university has confirmed to RAS and the Deputy Attorney General for the Examiner that the university was not informed of this additional fee and it did not authorize it. The University thought that it was receiving all of its drug manufactures' rebates.**

#### ***Medical Claims Audit***

Despite EPA and RAS briefing all state universities in October 2011 on the requirements of Alabama Act 2011-703, and that the state had selected RAS to perform its statewide audit, USA hired an audit firm to perform a medical and pharmacy audit on a fee-for-service basis in January 9, 2012.

USA paid the firm its fee, plus expenses, to perform a sample audit on 220 medical claims. The contract for the sample audit with the other auditing firm was executed January 9, 2012 and completed August 16, 2012. RAS does not know if any of the funds were recovered by USA, but the firm was not engaged to do recovery.

USA stated that it felt it should be proactive regarding the audit and that if anyone was going to find anything it should be the university.

**The other auditing firm did not uncover the \$297,564 in additional, undisclosed, unauthorized administrative fees for pharmacy that BCBSAL/Prime Therapeutics charged USA, which is reported above.**



### *Recommendations for University of South Alabama Pharmacy & Medical Payments*

- Include prescription discount and price guarantees in future ASA agreements, which are commonly utilized in the industry.
- Amend the current ASA to include discount price guarantees for the university.
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive recovery audit as authorized by Alabama Act 2011-703, which would include a full recovery audit of Auburn's medical benefits.
- Amend the ASA to include unrestricted audit rights for the state.



## *Troy University*

### ***Pharmacy Benefit Audit***

Troy University was not provided any discount or price guarantees by BCBSAL in their agreement. Therefore, there was no pricing/discount benchmark to audit against in order to validate whether prescriptions for the university were accurately paid or not. Discount and price guarantees are commonly utilized in the industry and it is highly recommended that they be included in future ASA agreements.

Troy was using Welldyne as its PBM when BCBSAL convinced it to switch to BCBSAL/Prime. Troy was told there would be no additional administrative fee beyond what it was already paying BCBSAL for its health benefits administration under its ASA. Further, Troy was shown a cost analysis, which detailed total costs. That analysis did not contain any additional administrative fee. When Troy received its first invoice there was an additional administrative fee included. Troy complained and had BCBSAL remove the extra fee per their agreement for Troy to switch to BCBSAL/Prime. Troy was unaware that BCBSAL/Prime had also withheld funds from its rebates as another administrative fee—and was continuing to do so..

**The audit revealed that BCBSAL charged Troy University additional, unauthorized and undisclosed administrative fees of \$54,333 beyond those allowed in its ASA in an 8 month period.**

### ***Medical Claims Audit***

RAS' audit schedule is to complete the medical claims audit for the two largest plans, Public Education Employees' Health Insurance Plan and State Employees' Health Insurance Plan, then, begin the recovery audits for the universities. Over more than a two-year span, BCBSAL, which is the TPA for all eight of Alabama's medical plans, has not agreed to a full recovery audit as authorized by Alabama Statute; this has prevented RAS from performing the recovery audit for Troy to date.

## *Recommendations for Troy University Pharmacy & Medical Payments*

- Include prescription discount and price guarantees in future ASA agreements, which are commonly utilized in the industry.
- Amend the current ASA to include discount price guarantees for the university.
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive recovery audit as authorized by Alabama Act 2011-703, which would include a full recovery audit of Auburn's medical benefits.
- Amend the ASA to include unrestricted audit rights for the state.



### ***University of Alabama at Birmingham (UAB)***

RAS was unable to review the PBM agreement for UAB since CVS/Caremark would not execute an acceptable Non-Disclosure Agreement and cannot, therefore make any recommendations on its pharmacy provisions.

#### ***Pharmacy Benefit Audit***

CVS/Caremark, the PBM for University of Alabama at Birmingham (UAB), did not finalize the non-disclosure agreement (NDA) or release the data for the audit. CVS/Caremark sent a NDA that was unacceptable. RAS requested CVS/Caremark accept a previously signed NDA or amend the NDA it sent in order to allow the audit to move forward. RAS has not received a response to date. This delay has precluded the State from achieving the benefit of a full recovery audit as authorized by state statute.

#### ***Medical Claims Audit***

RAS' audit schedule was to complete the medical claims audit for the two largest plans, Public Education Employees' Health Insurance Plan and State Employees' Health Insurance Plan, then, begin the recovery audits for the universities. Over more than a two-year span, BCBSAL, which is the TPA for all eight of Alabama's medical plans, has not agreed to a full recovery audit as authorized by Alabama Statute; this has prevented RAS from performing the recovery audit for UAB to date.

### ***Recommendations for University of Alabama at Birmingham Pharmacy & Medical Benefits***

- Conduct a recovery audit and contract compliance audit on CVS/Caremark
- Explicitly prohibit the TPA/PBM from charging any undisclosed, unauthorized fees. All pricing and fees in contracts shall be explicit, transparent and easily verifiable by the state.
- Subject TPAs/PBMs to penalties for non-compliance with pricing requirement. Impose financial penalties for failure to provide explicit, clear and transparent pricing or for imposing any undisclosed, unauthorized fee or withholding of funds.
- Conduct a comprehensive medical benefits recovery audit as authorized by Alabama Act 2011-703
- Amend the ASA to include unrestricted audit rights for the state.



## *Recommendations for State Master Contracts*

- RAS recommends that the state include a mandatory provision in its master contract requirements specifying that all vendors and service providers under contract with the state shall cooperate with audits conducted on behalf of the state.
- Further, that vendors and service providers shall provide the requested data and/or documentation within 30 days of the written request for such records.
- The State may want to consider adding Lost Interest Income charges to funds that are not returned to the State timely as an incentive for vendors/service providers to refund overpayments quickly.

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*Alabama Colleges and Universities’  
Responses to Recovery Audit*



# UNIVERSITY OF SOUTH ALABAMA



BUSINESS OFFICE

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September 12, 2014

Mr. Ronald L. Jones, Chief Examiner  
State of Alabama Department of Examiners of Public Accounts  
P.O. Box 302251  
Montgomery, Alabama 36130-2251

Re: Recovery Audit Specialist LLC's, Alabama Public Universities' 2014 Recovery Audit Management Report

Dear Mr. Jones:

After a review of the courtesy copy of Recovery Audit Specialist, LLC's Alabama Public Universities' 2014 Recovery Audit Management Report supplied by your office we have found some items in the report that we could not substantiate or that we have questions about.

A pie chart graph is presented on page 12 of the report. The University of South Alabama and University of South Alabama Hospital appear twice in that chart; however, only one set of numbers is supported. The list of "University & College AP Recoveries by Reason for Overpayment" chart on page 14 and 15 in the reports lists only the amounts of \$18,442.66 and \$3,067.00. During the fieldwork of the audit we were made aware of the \$3,067 for the University of South Alabama Hospital and \$17,001.83 for the University of South Alabama. An additional amount of \$1,440.83 has been added to the University's total; however this amount was not discussed with University personnel prior to the issuance of this report.

Additionally, amounts of \$29,305.00 and \$19,323.90 were also shown in the pie chart; however we are not aware of where those amounts came from. The amounts do not appear in the report nor does the University have any support or documentation for those amounts.

There were also comments in the report that indicate certain University personnel did not fully cooperate with RAS auditors. We are aware of no such situations; therefore this comment is quite surprising. In fact, the feedback that we received from Michael Brown, Senior Auditor of RAS, during his visit was very positive. Mr. Brown was very complimentary of our staff and the prompt action given to providing documents and information to him.

Please contact me if you have any questions or need additional information.

Polly Stokley

University of South Alabama  
Controller

cc: —Christine Harden, State of Alabama Department of Examiners of Public Accounts  
Stephen H. Simmons, Vice-President for Financial Affairs  
Scott Weldon, Assistant Vice-President for Financial Affairs  
Jean W. Tucker, University Attorney



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*Office of the President*

September 5, 2014

Mr. Ronald L. Jones  
Chief Examiner  
State of Alabama  
Examiners of Public Accounts  
P. O. Box 302251  
Montgomery, Alabama 36130-2251

Re: AIDB Audit Response – 2014 Recovery Management Report prepared by  
Recovery Audit Specialist LLC

Dear Mr. Jones:

The senior administration of the Alabama Institute for Deaf and Blind (AIDB) appreciates the opportunity to submit the following comments related to the published report specifically addressing AIDB.

There has been a change in key leadership personnel, including a new Director of Accounting and a new Chief Financial Officer, since this audit was completed. AIDB senior administration welcomes timely feedback that will assist us in having complete transparency as it relates to managing our funds as well as a culture that is courteous and efficient.

Sincerely,

John Mascia, Au.D.  
President

JM/amf