

Report on the

# Jacksonville State University

Jacksonville, Alabama

October 1, 2016 through September 30, 2018

Filed: November 29, 2019



## Department of Examiners of Public Accounts

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*Rachel Laurie Riddle, Chief Examiner*





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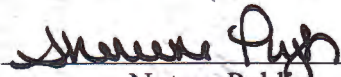
Rachel Laurie Riddle  
*Chief Examiner*

Honorable Rachel Laurie Riddle  
Chief Examiner of Public Accounts  
Montgomery, Alabama 36130

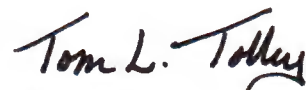
Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, I submit this report on the results of the examination of Jacksonville State University, Jacksonville, Alabama, for the period October 1, 2016 through September 30, 2018.

Sworn to and subscribed before me this  
the 30 day of October, 2019.

  
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Notary Public

Respectfully submitted,



Tom L. Tolley  
Examiner of Public Accounts

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## *Table of Contents*

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	<i>Page</i>
<b>Summary</b>	A
Contains items pertaining to state legal compliance, University operations and other matters.	
<b>Comments</b>	C
Contains information pertaining to University operations, compliance and other matters.	
<b>Schedule of State Compliance and Other Findings</b>	D
Contains detailed information about findings pertaining to state legal compliance and other findings.	
<b>Additional Information</b>	1
Exhibit #1 <b>Members of the Board of Trustees and Officials</b> – a listing of the University board members and officials.	2

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Department of  
**Examiners of Public Accounts**

**SUMMARY**

**Jacksonville State University  
October 1, 2016 through September 30, 2018**

Jacksonville State University (the “University”) is a state supported public, comprehensive institution that provides programs of study leading to Bachelor’s, Master’s, Education Specialist, and Doctoral degrees in business, education, the arts, the sciences, nursing, and emergency management, as well as a number of professionally accredited and continuing education programs. The University offers many online courses with online programs in emergency management, business, education, and others, at the graduate, undergraduate, and doctoral levels.

Jacksonville State University Foundation, Inc. (the “Foundation”) was organized as a non-profit corporation without capital stock under the laws of the State of Alabama. The organization was formed to provide support for Jacksonville State University.

The firm of CDPA, PC, Certified Public Accountants, conducted the financial audit of the University for the fiscal years ended September 30, 2017 and 2018.

This report presents the results of an examination of the University and a review of compliance by the University with applicable laws and regulations of the State of Alabama in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129.

The finding in the prior examination report appears to have been resolved.

The following instances of noncompliance with state laws and regulations and other matters were found during the examination as shown on the Schedule of State Compliance and Other Findings, and they are summarized below.

- ◆ 2018-001 The University may not have complied with the *Code of Alabama 1975*, Section 36-25A-4, in regard to maintaining accurate records for subcommittee meeting minutes.
- ◆ 2018-002 The University may not have complied with the *Code of Alabama 1975*, Section 39-2-2 and AG Opinion 79-313, in regard to public works projects and change orders.

- ◆ 2018-003 The University may not have complied with the *Code of Alabama 1975*, Sections 39-2-2(a), 39-1-1(a) or 39-2-4(a), in regard to public works project advertising and required bonds.
- ◆ 2018-004 The University may not have complied with the *Code of Alabama 1975*, Sections 39-2-2(a) and 39-2-2(e), in regard to public works projects and emergency bids.

The following officials/employees were invited to an exit conference to discuss the findings and recommendations appearing in this report: Dr. John M. Beehler, President; and Mr. James Brigham, Vice-President for Finance and Administration. The following individuals attended the exit conference: Mr. James Brigham, Vice-President for Finance and Administration; Mr. Skip Clark, Chief Internal Auditor; Mrs. Alice Wudarczyk, Assistant Controller; Dr. Christie Shelton, Provost and Vice-President of Academic Affairs and Dr. Don Killingsworth, Chief Operations Officer. Representing the Department of Examiners of Public Accounts were: Mrs. Melissa Knepper, Audit Manager; and Mr. Tom Tolley, Examiner.





Department of  
**Examiners of Public Accounts**

**COMMENTS**

**Jacksonville State University  
October 1, 2016 through September 30, 2018**

From modest beginnings, Jacksonville State University has evolved into the educational center of Northeast Alabama. The Alabama Legislature in the 1882-83 session created a state normal school when Governor Edward O'Neal signed into law a bill creating the school on February 22, 1883. Jacksonville State Normal School acquired the facilities and equipment of Calhoun College, consisting of twelve acres of land and a two-story brick building. The Board of Directors elected James G. Ryals, Jr., as the first President. The school opened with three instructors: W. J. Borden, Mathematics; Eliza A. Bowen, English; and Ida J. Woodward, primary department. As stipulated in the establishing act, the Normal School conducted a preparatory school for children of the town and surrounding areas. At the end of the first year, on August 15, 1884, William Mark Haynes, President of the Board of Directors, reported that funds totaling \$4,751.25 had been received, including \$2,500 from the state, that 25 students were enrolled in the normal school, and that 222 were in the preparatory school.

The Normal School remained in operation until 1930, when it became Jacksonville State Teachers College, reflecting an increasing higher education role for the Institution. Five years later, the College earned regional accreditation from the Southern Association of Colleges and Schools. In 1957, the name again changed, to Jacksonville State College, when the first graduate program - the master's degree in elementary education - was created. On August 2, 1966, the Legislature authorized the State Board of Education to elevate the College to university status. On August 17, 1967, the Legislature established an independent Board of Trustees for the University and divested jurisdiction from the State Board of Education.

Jacksonville State University has been served by eleven presidents: James G. Ryals, Jr. (1883-1885), J. Harris Chappell (1885-1886), Carlton Bartlett Gibson (1886-1892), J. B. Jarrett (1892-1893), Jacob Forney IV (1893-1899), Clarence William Dauge (1899-1942), Houston Cole (1942-1971), Ernest Stone (1971-1981), Theron E. Montgomery (1981-1986), Harold J. McGee (1986-1999), William A. Meehan (1999-2015), and John M. Beehler (2015-present).

Jacksonville State University has developed into a modern regional university serving Northeast Alabama on a 457-acre campus with 79 buildings. In addition, the University operates off-campus centers at JSU-Gadsden and JSU-McClellan. Through its programs of teaching, research, and service, Jacksonville State University has served the region and the state for more than 130 years.

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*Schedule of State Compliance  
and Other Findings*

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***Schedule of State Compliance and Other Findings***  
***For the Year Ended September 30, 2018***

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Ref. No.	Finding/Noncompliance
2018-001	<p><b><u>Finding:</u></b>  The <i>Code of Alabama 1975</i>, Section 36-25A-4 states, “A governmental body shall maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, place, members present or absent, and action taken at each meeting. Except as otherwise provided by law, the records of each meeting shall become a public record and be made available to the public as soon as practicable after approval.” Section 36-25A-2 (6) defines a meeting as, “The gathering, whether or not it was prearranged, of a quorum of a committee or subcommittee of a governmental body during which the members of the committee or subcommittee deliberate specific matters relating to the purpose of the committee or subcommittee that, at the time of the exchange, the participating members expect to come before the full governmental body, committee, or subcommittee at a later date.” During the examination period the University’s Board of Trustees did not prepare minutes for subcommittee meetings.</p> <p><b><u>Recommendation:</u></b>  The University should ensure compliance with the <i>Code of Alabama 1975</i>, Section 36-25A-4.</p>
2018-002	<p><b><u>Finding:</u></b>  The <i>Code of Alabama 1975</i>, Section 39-2-2, requires awarding authorities to advertise for sealed bids before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000).</p> <p>Public Works contracts are sometimes adjusted in the course of construction due to unforeseen circumstances not contemplated by the owner when bid specifications were prepared. These adjustments are referred to as change orders.</p> <p>The Attorney General, in Opinion 79-313, set out the types of change orders to be allowed on public works projects as follows:</p> <ol style="list-style-type: none"> <li>1. Minor changes for a total monetary value less than required for competitive bidding;</li> <li>2. Changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of the work;</li> <li>3. Emergencies arising during the course of the work on the contract;</li> <li>4. Changes or alternates provided for in the original bidding where there is no difference in the price of the change order from the original best bid on the alternate;</li> <li>5. Changes of relatively minor items not contemplated when the plans and specifications were prepared, and the project was bid which are in the public interest and which do not exceed 10% of the contract price.</li> </ol>

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***Schedule of State Compliance and Other Findings***  
***For the Year Ended September 30, 2018***

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Ref. No.	Finding/Noncompliance
	<p><b><u>Finding Continued:</u></b></p> <p>The opinion also required that a signed statement from the architect be attached to each change order containing the following:</p> <ol style="list-style-type: none"><li>1. A statement of what the change order covers and who instituted the change order and why it is necessary or desired;</li><li>2. There must be a statement stating the reasons for using the change order method rather than competitive bids;</li><li>3. There must be a statement that all prices have been reviewed and found reasonable, fair and equitable and recommending approval of the same;</li><li>4. The local owner shall either endorse the architect's statement and recommendations or submit a separate statement covering the foregoing items.</li></ol> <p>The Alabama Building Commission has developed forms to be used to process project changes. These forms require the Owner and Architect to supply information needed to fulfill the requirements of Attorney General Opinion 79-313 that lists the guidelines relating to Change Orders.</p> <p>Our examination included a review of a let bid the University performed for the Baseball stadium renovation in the amount of \$8,920,000. A total of four change orders were noted for the project totaling \$1,811,644. The final cost of the project totaled \$10,731,644. Change Order Number 2 consisted of numerous changes including COR#25 which revised the suite layout from four suites to seven suites for a total cost of \$162,369. This amount is comprised of cost incurred by the contractor for labor, materials, and subcontracts totaling \$140,668 and an additional \$21,701 that was added for overhead and markup.</p> <p>Approval of these owner-initiated changes to the project may not comply with the types of changes to be allowed on public works projects mentioned in Attorney General Opinion 79-313.</p> <p><b><u>Recommendation:</u></b></p> <p>The University should develop controls to ensure compliance with the <i>Code of Alabama 1975</i>, Section 39-2-2 and Attorney General Opinion 79-313.</p>

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***Schedule of State Compliance and Other Findings***  
***For the Year Ended September 30, 2018***

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Ref. No.	Finding/Noncompliance
2018-003	<p><b><u>Finding:</u></b></p> <p>The <i>Code of Alabama 1975</i>, Section 39-2-2(a) states, "Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or a county, or instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made."</p> <p>The <i>Code of Alabama 1975</i>, Section 39-1-1(a) states, "Any person entering into a contract with an awarding authority in this state for the prosecution of any public works shall, before commencing the work, execute a performance bond, with penalty equal to 100 percent of the amount of the contract price. In addition, another bond, payable to the awarding authority letting the contract, shall be executed in an amount not less than 50 percent of the contract price, with the obligation that the contractor or contractors shall promptly make payments to all persons supplying labor, materials, or supplies for or in the prosecution of the work provided in the contract and for the payment of reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on the bond."</p> <p>The <i>Code of Alabama 1975</i>, Section 39-2-4(a) states, "The bidder shall be required to file with his or her bid either a cashier's check drawn on an Alabama bank or a bid bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the awarding authority for an amount not less than five percent of the awarding authority's estimated cost or of the contractor's bid, but in no event more than ten thousand dollars (\$10,000)."</p> <p>The University awarded two public works projects that were in excess of \$50,000 that were not advertised properly. In addition, the University did not obtain all of the proper bonds for either project.</p> <p><b><u>Recommendation:</u></b></p> <p>The University should ensure compliance with the <i>Code of Alabama 1975</i>, Sections 39-2-2(a), 39-1-1(a), and 39-2-4(a).</p>

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***Schedule of State Compliance and Other Findings***  
***For the Year Ended September 30, 2018***

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**Ref.  
No.**

**Finding/Noncompliance**

2018-004

**Finding:**

The *Code of Alabama 1975*, Section 39-2-2(a) requires awarding authorities to advertise for sealed bids for three weeks before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000).

The *Code of Alabama 1975*, Section 39-2-2(e) states, “In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement.”

On March 19, 2018, the University campus was hit by a tornado that damaged numerous buildings on the campus. On March 20, 2018 the University entered into a Disaster Recovery Authorization and Service Contract with a disaster recovery company for storm damage mitigation services. The mitigation agreement disclosed the rates to be used for labor, consumables, rental of company owned equipment. Subcontracted rental equipment, services, and miscellaneous items were to be billed at cost plus 20%. Overtime was to be paid to the company in those instances where employees worked in excess of 40 hours in a week. On March 23, 2018, the University entered an addendum to the mitigation contract that added services of the construction division of the mitigation company at the following listed labor rates per hour.

Roof	\$95.00
Carpenter	\$86.00
Drywall/Finisher	\$74.00
Painter	\$68.00
Electrician	\$98.00
Mechanical	\$98.00
Equipment Operator	\$71.00
Brick Mason	\$68.00

These rates were to be used in conjunction with the mitigation rate sheets in the original contract.

The company issued periodic statements detailing the scope of the mitigation and construction work.

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***Schedule of State Compliance and Other Findings***  
***For the Year Ended September 30, 2018***

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Ref. No.	Finding/Noncompliance
	<p><b><u>Finding Continued:</u></b></p> <p>As of May 11, 2018, the company had charges totaling \$4,415,723 for mitigation services across the campus which were listed as 98% complete. As of the same date the company had charges totaling \$8,192,288 for construction services. As of January 9, 2019, the company had charges totaling \$52,140,151 for construction work at 48 sites on the campus.</p> <p>The University exceeded the emergency provision of the public works law at the <b><i>Code of Alabama 1975</i></b>, Section 39-2-2(e) by awarding the no bid construction addendum which allowed the construction work to proceed for months after the emergency event occurred.</p> <p>A review of billings from the company revealed that overtime was being calculated on a daily basis for construction labor instead of the weekly basis specified in the contract agreement. This increased the cost billed to the University when employees worked in excess of 8 hours on a given day but did not work in excess of 40 hours in the applicable week.</p> <p>Internal control procedures should require clauses in cost plus contracts allowing the University access to the contracted company records to ensure that it pays only those costs that are properly compensable under the terms of the contract. The University's contract did not include an audit provision.</p> <p><b><u>Recommendation:</u></b></p> <p>The emergency provision in the <b><i>Code of Alabama 1975</i></b>, Section 39-2-2 (e) only removes the requirement for advertising. Competitive procedures should be employed to the extent possible. The University should develop controls to ensure compliance with the <b><i>Code of Alabama 1975</i></b>, Section 39-2-2(a) and (e) when emergency situations are encountered.</p>



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# *Additional Information*

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***Members of the Board of Trustees and Officials***  
***October 1, 2016 through September 30, 2018***

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<b>Board Members</b>		<b>Term Expires</b>
Hon. Robert Bentley (Until April 2017)	Governor	Ex-Officio
Hon. Kay Ivey (Beginning April 2017)	Governor	Ex-Officio
Mr. Michael Sentance (Until September 2017)	State Superintendent of Education	Ex-Officio
Mr. Ed Richardson (September 2017 – May 2018)	Interim State Superintendent of Education	Ex-Officio
Dr. Eric Mackey (Beginning May 2018)	State Superintendent of Education	Ex-Officio
Senator Vivian Davis Figures	First District	2023
Hon. Gale Saxon Main	Second District	2023
Hon. Gregory D. Brown	Third District	2021
Hon. William Ronald Smith (Resigned February 22, 2019)	Third District	2022
Hon. Clarence W. Daugette, III	Fourth District	2023
Hon. Randall Earlie Jones	Fifth District	2021
Hon. Rusty Fuller	Sixth District	2019
Hon. Thomas W. Dedrick, Sr. (Resigned April 16, 2019)	Seventh District	2019
Hon. Randy Y. Owen	In-State At-Large	2024
Hon. Tony L. Ingram	Out-of-State At-Large	2021

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***Members of the Board of Trustees and Officials***  
***October 1, 2016 through September 30, 2018***

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**Officials**

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Dr. John M. Beehler

President

Dr. Ashok K. Roy  
(Until June 30, 2018)

Vice-President for Finance  
and Administration/CFO

Mr. James Brigham  
(Beginning July 1, 2018)

Vice-President for Finance  
and Administration