WEST VIRGINIA LEGISLATURE
Legislative Post Audit Division

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Denny Rhodes
Director

October 18, 2015

The Honorable William P. Cole, III, President
West Virginia State Senate
Post Audits Sub-Committee, Co-Chair
Room 229M, Building 1
State Capitol Complex
Charleston, West Virginia 25306

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
Post Audits Sub-Committee, Co-Chair
Room 228M, Building 1
State Capitol Complex
Charleston, West Virginia 25306

Dear Mr. President and Mr. Speaker:

As part of the audit process, the Legislative Auditor has reviewed operations at Shepherd University to determine what areas will be chosen for audit. This process is ongoing throughout the audit and will prompt multiple reports. Currently, **purchasing card (p-card)** procedures and transactions for Fiscal Year 2013 have been identified as the area of focus. The objectives and an update of the areas of concern pertaining to these objectives thus far are as follows:

Objective 1. Has Shepherd University developed and documented internal control and accounting procedures that ensure P-Card usage is consistent with the *WV State Auditor's Office Purchasing Card Policies and Procedures Manual*? If yes, have these procedures been submitted in writing to the State Auditor's Office P-Card Division?

Shepherd has developed internal control and accounting procedures that, if followed, could ensure P-Card usage is consistent with the *WV State Auditor's Office Purchasing Card Policies and Procedures Manual*. These procedures were submitted to the State Auditor's Office P-Card Division on August 27, 2012 in response to a letter[1] from Glen B. Gainer, III, State Auditor, requesting Shepherd make modifications to its internal controls and accounting procedures to bring them into compliance with the *State Auditor's Office Purchasing Card Policies and Procedures* and demonstrate proper program oversight.

Shepherd officials became aware of what appeared to be improper expenditures by an employee and contacted the State Auditor's Office (SAO) in mid-2012. The SAO and the WV Commission on Special Investigations (CSI) conducted an investigation into the improper spending which resulted in testimony before a grand jury and an indictment of the employee, in April 2013, for 53 counts of fraudulent or unauthorized use of a purchasing card and one count of fraudulent schemes.

[1] See Attachment.

These purchases amounted to nearly $86,000 and included items such as clothing, auto parts, jewelry, cosmetics, Halloween costumes, luggage, purses, perfume and other items.

Further work by the SAO was suspended when the issue was turned over to the local prosecutor; however, the letter from Mr. Gainer, referencing the allegations of potential fraud and oversight issues, noted the following items:

- Concern about the time that Shepherd let pass prior to any action being taken regarding questionable purchases;
- Issues with the review and reconciliation process for p-card purchases;
- Missing and/or inadequate documentation;
- No requirement for managers/supervisors to review transactions of subordinates;
- Lack of procedures for how the CFO and P-Card Coordinator responsibilities are to be performed and documented; and
- A recommendation to develop guidelines for student giveaways, including a dollar limit, and forward to the State Ethics Commission for comment.

Shepherd responded with revised policies and procedures outlining detailed steps for the review and reconciliation process, records retention, usage restrictions, etc.

Objective 2. Were Shepherd University P-Card purchases made in compliance with the policies and procedures of the University, Higher Education Policy Commission, and the State Auditor's Office?

Transactions reviewed have revealed that issues with Shepherd's p-card program continue to exist and purchases were not always made in compliance with the above mentioned policies and procedures. Issues noted include extravagant spending, unallowable purchases, purchases that appear to be for personal use, evidence of circumventing p-card transaction limits, and failure to follow established procedures such as obtaining supervisor and p-card coordinator/sub-coordinator approval.

Extravagant, Unallowable, and Personal Use

Shepherd employees made p-card purchases for items that could be considered extravagant, for unallowable items, and for items that appear to be for personal use. Examples are as follows:

- **Meals**, not associated with team travel, were purchased on p-cards. One specific employee purchased **over $1,000 in meals** that were not flagged as unallowable, the majority of which appeared to be personal. The same person had multiple transactions that **were flagged** and subsequently reimbursed; however, this repeat offender continues to have a p-card.
- Meals for athletics were purchased on p-cards for amounts averaging as much as **$48.00 per meal**.
- A dinner for two at **Hollywood Casino's Final Cut Steakhouse in Charles Town, WV** was purchased on a p-card at a cost of $95.00, including tip, but the hospitality form lacked enough information to show the benefit to Shepherd.

- **Condoms, K-Y Jelly, and Vital Erotic Shots** *(a sexual enhancer)* were purchased under the description "RA Program" and the purchase was approved for payment. A copy of the corresponding receipt is shown to the right.

RITE AID PHARMACY

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Store #02543
1001 MADDEX DRIVE
RT. 45
SHEPHERDSTOWN, WV 25443
(304) 876-0505

Register #2 Transaction #666980
Cashier #25433980 12/04/12 3:37PM

WELLNESS+ SAVINGS
Dscnt Card#: 95XXXXX5894

1	TROJAN PLEASURE PACK 36CT	21.59 T H
	Regularly 1/26.99	
	Discount 5.40-	
1	DUREX PLEASURE PACK 36CT	21.59 T
	Regularly 1/26.99	
	Discount 5.40-	
1	K-Y JELLY 2Z	3.83 T
	Regularly 1/4.79	
	Discount 0.96-	
1	K-Y JELLY 2Z	3.83 T
	Regularly 1/4.79	
	Discount 0.96-	
1	VITAL EROTIC SHOT 1.66Z	2.87 T
	SALE 1/3.09, Reg 1/3.59	
	Discount 0.72-	
1	VITAL EROTIC SHOT 1.66Z	2.87 T
	SALE 1/3.09, Reg 1/3.59	
	Discount 0.72-	

6 Items	Subtotal	56.58
	Tax	.00
	Total	56.58
*VISA *		56.58

VISA card * #XXXXXXXXXXXX7862
App # AUTO
Ref # 042989
Card Present

Tendered	56.58
Cash Change	.00

Your wellness+ Savings: 14.16

- A sterling silver covered platter costing $95 was purchased for "music, opera: props" according to the p-card log. Its current location is unknown. The same p-card holder, no longer employed by Shepherd, also **purchased groceries, clothing, and fuel under the description of "music, opera."**
- A **car was rented for 1½ months**, costing $1,150.94; however, Shepherd has state cars available for use. The car was initially rented for one month at a cost of $789.99. The receipt had "Admissions Recruiting" written on it and a Travel Settlement form was attached documenting only one (1) night of travel. The car rental was extended for an additional week and four days at a cost of $360.95. Except for the rental receipt, no other documentation was provided.
- **Shuttle service** from All Star Limousine in the amount of **$372** to and from Dulles, **$145** from "H Washington to Shepherdstown on 11/27" and **$145** from "H Washington to Penn Station on 11/28" were made; however, no other details were given.
- A down payment was charged to a p-card for a **two bedroom townhouse** at Nemacolin Woodlands Resort in Farmington, PA at a cost to the State of $380.41 (50% of the total charge). The stay was for a Saturday and Sunday in April 2013. Except for the email confirmation, no other information was provided.
- A **wine tasting and tour** for eleven people at **Breaux Vineyards** in Purcellville, VA was paid for with the p-card. Documentation lists the event as the Council of Public Liberal Arts Colleges (COPLAC) Conference; however, no other information was available including a list of those participating in the tour.
- Shipping was expedited, often for amounts above the price of the item being shipped. This practice was consistent with specific p-card holders who appeared to have no regard for the excessive amounts being charged to the State.

Other miscellaneous items included payment for two missing hotel pillows totaling $110 that should not have been the responsibility of the state to reimburse, travel insurance, books for personal use, computer games, and valet parking.

Circumventing of P-Card Transaction Limits

Two Shepherd employees were allowed to circumvent their established p-card transaction limits on three separate occasions by splitting one purchase from a vendor into two or more payment transactions for the purpose of spending more than they were authorized to spend *(See Table 1)*. There was no evidence of supervisor approval for the purchases at Best Buy and two of the three receipts were unreadable. Contrarily, the purchases from Weiss Brothers had supervisor approval. Additionally, the p-card logs for the Weiss Brothers purchases were signed by a p-card coordinator verifying they were in compliance with all policies and procedures. Thus, the policies set in place to prevent circumventing transaction limits are either not understood by multiple levels of management or are being ignored.

Table 1: Incidents of Circumventing P-Card Transaction Limits

Date	Authorized Transaction Limit	Items Purchased	Total of Purchase	Excess Amount Over Limit
7/1/12	$2,500	Best Buy Electronics	$6,444.97	$3,944.97
12/7/12	$7,500	Weiss Brothers Industrial Supplies	11,344.24	3,844.24
4/1/13	$7,500	Weiss Brothers Industrial Supplies	9,177.77	1,677.77
				$9,466.98

Lack of Supervisor and/or P-Card Coordinator/Sub-Coordinator Approval

Shepherd could not provide evidence that all p-card purchases received approval from the p-card holder's supervisor and the p-card coordinator/sub-coordinator as required by Shepherd's policies and procedures. Thus far, approximately 27% of all transactions reviewed were missing one or both levels of approval. Supervisors are required to review the p-card holders log and all documentation related to the purchases and "sign the log as verification/approval." Subsequently, the p-card coordinator or a sub-coordinator is required to review all documentation and sign the log sheet as verification of compliance.

Objective 3. Has Shepherd University maintained all required documentation for each p-card transaction as required by the *WV State Auditor's Office Purchasing Card Policies and Procedures Manual*?

Approximately 19% of the p-card transactions reviewed so far, totaling approximately $323,000 in purchases, had missing or no documentation required by the policies and procedures of the SAO, HEPC, and/or Shepherd. Items missing included itemized receipts, travel settlement forms, hospitality forms, and p-card logs. Shepherd has been notified of these items and has been given the opportunity to provide further documentation and/or an explanation for the missing documentation. Concerning purchases related to athletics and student activities, Shepherd has stated that no other documentation is required; however, Shepherd's policies from 2010 and 2012 state otherwise. Even without written policies requiring further documentation for athletics and student activities, it would be a poor business practice to not require some level of documentation and approval for these purchases and would increase the risk of fraudulent p-card purchases.

Conclusion

Shepherd University's p-card program has multiple issues creating a high risk environment for the misuse of p-cards potentially resulting in fraudulent expenditures and ultimately costing the State money. The policies and procedures required by the SAO and submitted by Shepherd can only assist in preventing misuse of the p-cards if the guidelines are actually followed. Additionally, not requiring all university programs to follow the same guidelines creates a risk for fraud and an organizational belief that those programs not held to the same standard are allowed to make purchases whether extravagant or unallowable, and without question or consequence. Although this is not the final audit report to be issued for the audit of the Shepherd University p-card program, it is already apparent that issues continue to exist regardless of the updated policies and procedures submitted to SAO in 2012. Therefore, steps need to be taken to ensure the established "internal controls and accounting procedures" requested by the SAO to bring Shepherd "into compliance with the *State Auditor's Office Purchasing Card Policies and Procedures*" are being followed effectively ***or*** all p-card privileges for Shepherd and its employees should be revoked as outlined in Section 9.3 of the aforementioned policies.

Respectfully submitted,

Denny Rhodes

Attachments: State Auditor's Office Letter to Shepherd University
Shepherd University Response to Legislative Auditor's Office
Legislative Auditor's Office Response to Shepherd University

State Auditor's Office Letter to Shepherd University Concerning Potential Fraud and Other Oversight Issues

State of West Virginia
Office of the State Auditor
1900 Kanawha Boulevard, East
State Capitol Complex, Building 1, Room W-100
Charleston, West Virginia 25305

Glen B. Gainer III
State Auditor

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August 20, 2012

Ms. Deborah Judd
Vice President for Administration and Finance
Shepherd University
PO Box 5000
Shepherdstown, West Virginia 25443-5000

Dear Ms. Judd:

After I and the Purchasing Card Executive Director were briefed by members of my Program Evaluation staff (Tim Butler and Danny Thompson) on August 19, 2012, of the potential fraud and other oversight issues currently impacting the purchasing card program at Shepherd University. In light of and in consideration of the dollar amounts involved, I am particularly concerned about the time that Shepherd University let pass prior to any action being taken regarding the questionable purchases and the missing / inadequate documentation. The appropriateness of agency purchases and the completeness of p-card documentation are two attributes that would be expected to be determined during the review / reconciliation process.

Reviews and reconciliations are CRITICAL processes that are to be performed by members of agency staff who are both knowledgeable and independent. Knowledgeable would mean someone who can determine if a purchase is appropriate under the circumstances. For this reason, we deem the review process to be a multi-tiered function. In larger and complex spending units such as Shepherd University, a cardholder's manager or supervisor would generally be the appropriate staff member held responsible for determining if a purchase is appropriate. Department heads may also be required to review cardholder transactions to ensure the purchases are made in accordance with division objectives, budgets, and governing criteria.

Complete and detailed documentation is the means by which determinations regarding the appropriateness of a purchase are made. When documentation required to support purchases is missing or inadequate (not itemized, illegible, etc.), members of agency staff who are responsible for the review of cardholder transactions cannot determine what was charged to the p-card much less determine if the purchase was appropriate or even business related. As a result, missing and inadequate documentation should never be permitted, tolerated or a recurring issue.

It was noted that according to your internal control and accounting procedures, Shepherd University's coordinator and sub-coordinator's transactions are required to be reviewed by their supervisor, but the managers and supervisors of other cardholders are not held to this requirement. Furthermore, it was also noted that CFO and Coordinator responsibilities are outlined in your procedures but **how** these responsibilities are to be performed and documented are not. This deficiency should be corrected immediately.

When determining the appropriateness of a purchase, ethical considerations must also be weighed. In the past, the State Ethics Commission's staff have formally and informally commented on areas including hospitality, gifts given to employees and third parties, and meals. You may consider developing guidelines for student give-aways including a dollar limit and forward those guidelines to the State Ethics Commission for comment.

Due to the nature and magnitude recently brought to light concerning Shepherd University's p-card program, I am requesting that you immediately make modifications to both your internal controls and accounting procedures to bring them into compliance with the State Auditor's Office Purchasing Card Policies and Procedures and that they demonstrate proper program oversight. I further would request that a copy of the modified rules be provided to my office no later than **3:30 p.m., Tuesday, August 28, 2012**. Failure to comply with this request will unfortunately result in the suspension of all p-cards issued to staff members of Shepherd University.

Should you have any questions or seek guidance from my office to assist you in complying with this request, please feel free to contact Amy Lewis, Purchasing Card Executive Director, at 304-558-2251 ext. 2105 or by email at amy.lewis@wvsao.gov .

Sincerely,

Glen B. Gainer III
State Auditor

GBGIII:abl

Shepherd University Response to Legislative Auditor's Office

Shepherd
UNIVERSITY

General Counsel

P.O. Box 5000
Shepherdstown
West Virginia 25443-5000
T. 304-876-5009
F. 304-876-6007

October 14, 2015

Mr. Denny Rhodes
Director, Legislative Post Audit Division
Building 1, Room W-329
1900 Kanawha Blvd, E
Charleston, WV 25305-0610

Dear Mr. Rhodes:

Thank you for providing an opportunity to respond to your draft letter addressed to President Cole and Speaker Armstead, which you provided to us on October 8. The audit of the P-Card program at Shepherd has helped us to realize that serious issues as to record-keeping continue to exist, to an unacceptable degree. We have taken immediate action steps that are designed to rectify these problems immediately. It is our understanding that you will include this written response in the package provided to the Legislative Committee.

We are convinced that a significant component of our problems have arisen from the fact that the practice of the P-Card Administrator was to have receipts and other documents scanned and uploaded into the Auditor's on-line systems, and then scanned with no permanent record retained at Shepherd. We believe that documents which would have satisfied the Auditor's expectations in many cases did exist at the time of the transaction reconciliations, but were apparently uploaded improperly by Shepherd staff and as of October 8 a number of documents had not been produced or found.

Because the executive officers of the University were not appropriately informed of the scope of these missing document issues until the transmittal of your draft letter on the night of October 8, 2015, we have not had an opportunity to fully investigate the extent to which some relevant documentation may exist in records of the individual p-card holders or their supervisors.

We would have preferred, and we believe the State's interests would have been better advanced, if more prompt alerts to these concerns by the Audit Team had come to the executive officers of the University, but that is a relatively small matter of interagency process. It is gravely disappointing to us that the P-Card Coordinator at Shepherd did not properly manage these issues on an ongoing basis and then neither she nor her supervisor properly advised senior university administrators of the issues as they arose with the Audit Team. We have implemented immediate steps to replace the P-Card Coordinator at Shepherd. We will work diligently with the State Auditor's Office to implement that change. The new P-Card Coordinator will be a Senior Accountant with extensive experience with the state's financial systems and the P-Card program. The new P-Card Coordinator will be fully trained and will be directed to report weekly to the CFO and the University President on the status of improvements in processes, for so long

as such focused oversight appears to be needed. We will support the new P-Card Coordinator in a comprehensive review of our P-Card compliance and operations.

Even before implementation of this important step as to the P-Card Coordinator, we have also directed that the University's Procurement Office will immediately terminate the shredding of any purchase-related documentation until local and backed up digital storage is established. We will ensure that appropriately trained staff are utilized in the P-Card administration and oversight.

Apart from this very serious concern as to processes and documentation, the University feels that it should directly address several of the specific transactions which were itemized, with only limited specificity, in the draft letter.

- Although colorful and understandably not a common issue for State audit teams, the University disputes the assumption that the purchase of sexually-related items by a Residence Hall Director on December 4, 2012 was extravagant or improper or a personal use. In a University residence life program, these kinds of items are very effective at getting the attention of students; it is a common programmatic component at Shepherd and at other higher education institutions for such items to be purchased and distributed to students.
- The University disputes that the rental car charges of the Admissions Office were extravagant or improper. Several years ago the University made a business decision to significantly reduce the size of its motor pool usage by faculty and staff to reduce costs and concluded that it could save money by having the Admissions Office recruiters use rental cars. This was not a reckless decision by a card-holder; this was a calculated business decision arising from comprehensive cost-analysis calculations. Even when the Admissions recruiters are not travelling on over-night trips, their day-trips are high mileage and are cost effective for such rentals.
- The University disputes that the COPLAC group expenditure was improper. The University does have lists of participants, which included only 1 Shepherd employee. The University hosted the annual national COPLAC conference in June 2013. As a component of the multi-day conference, Shepherd structured several optional visits to several components of our greater Eastern Panhandle community. Ten COPLAC senior administrators participated in the vineyard tour, along with the Shepherd administrator who used his P-Card to pay for the tours. We will remit that list of participants by separate cover.
- The University employee who used a P-Card for a town house deposit at the Pennsylvania resort was a golf coach. We are working to confirm our preliminary belief that the deposit was an arrangement for the entire golf team to stay in the townhouse while competing in a local tournament.
- The former University president hosted a hospitality dinner for a visiting national scholar in 2012 at the Hollywood Casino in Charles Town. The Casino is a vital component of the local economy, as well as the State's tax revenues. The Casino is an active and dynamic good corporate citizen of the Eastern Panhandle, contributing to a wide assortment of charities and community improvement initiatives. The University does not feel that a very occasional patronage of the restaurant for the purpose of hospitality of

out-of-state visitors is in any form an improper extravagance. The standard practice of the University President has been to omit names from the hospitality form that is provided to the procurement office. The procurement staff had been told that a record of the names is preserved in the President's Office records and inspection can be provided as needed, but the meetings of the University President are sometimes sensitive and so this effort at discreetness has been utilized. The University will document the visiting scholar by separate cover.

- The University's preliminary inquiry suggests to us that purchases for the music opera were probably legitimate purchases, but our review continues.
- The shuttle service in November 2012 was provided for a visiting lecturer to be transported from regional transportation centers to Shepherdstown, and returned. While we would treat employee use of that shuttle as excessively extravagant, our staff felt that it was a reasonable arrangement for the visitor to our campus.
- The employee who paid for two missing hotel pillows was not paying for pillows that he personally lost. The employee is the soccer coach of both our men's and women's soccer teams. When the teams have stayed in a hotel and checked out and the hotel insists that something was missing and charges the credit card, the University has to absorb that expense unless one or more students confess to responsibility for the missing items, but in this case no one did.
- The Audit Team assumed that an employee used her P-Card for "computer games." In reality, the P-Card purchase was of crossword and Sudoku puzzles that were published in the student newspaper, *The Picket*.
- The University expects to demonstrate that none of the book purchases highlighted for review were personal use. The University has already confirmed that the Kindle purchases (two of the three items highlighted) are part of the Kindle collection of The Scarborough Library, not a personal use.
- After making a preliminary review, the meal purchases by an athletics coach identified in the letter are a considerable concern to the University. We intend to complete a comprehensive review and assessment of these expenses promptly. Especially in this period of fiscal pressures on the University and the State, and on all of our students, we are determined to require our coaches to use sound purchasing practices.

Because the detailed information on the items referenced in the letter were not provided to the university's executive officers until the afternoon of October 13, it has not been possible to complete a full review of all of these issues. We look forward to continuing to work with the State Auditor and with the Legislative Auditors Office to fully address these questions in a complete manner, and we will appreciate your willingness to help us with our processes of oversight. We agree with you that immediate improvements in the management of our P-Card program records monitoring and retention is essential.

Sincerely,

K. Alan Perdue

Legislative Auditor's Office Comments on Shepherd University's Response to Areas of Concern

Concerning the above response to this letter by Shepherd University, the Legislative Auditor determined follow-up comments were warranted. A draft of the letter to be presented to the Post Audits Subcommittee was sent to Shepherd University's Interim President and the Chair of the Shepherd University Board of Governors on Thursday, October 8, 2015 at approximately 6:30 p.m. The audit team received the request for additional information on the morning October 13, 2015 and immediately provided the information. As the audit is ongoing and the final p-card audit report has not been released, Shepherd still has the opportunity to provide reasonable evidence to justify questionable transactions.

In reference to specific sections for the letter from Shepherd University, the audit team has provided further information below:

Shepherd Response: Although colorful and understandably not a common issue for State audit teams, the University disputes the assumption that the purchase of sexually-related items by a Residence Hall Director on December 4, 2012 was extravagant or improper or a personal use. In a University residence life program, these kinds of items are very effective at getting the attention of students; it is a common programmatic component at Shepherd and at other higher educational institutions for such items to be purchased and distributed to students.

Legislative Auditor Comment

The P-Card was used to purchase 72 condoms, two tubes of K-Y Jelly, and two sexual enhancer drinks. On another occasion, the same card holder purchased one tube of K-Y Jelly and two sexual enhancers. Purchases of sexual enhancers *have not been found* in prior Post Audits of higher education institutions. Although understandable that universities wish to educate students regarding protection for sexual activity, K-Y Jelly and other sexual enhancers, clearly not packaged for individual use, are related to pleasure, *not protection*. The audit team requested an explanation of these purchases from Shepherd; Shepherd's response was "unable to locate."

Shepherd Response: The former University president hosted a hospitality dinner for a visiting national scholar in 2012 at the Hollywood Casino in Charles Town. The Casino is a vital component of the local economy, as well as the State's tax revenues. The Casino is an active and dynamic good corporate citizen of the Eastern Panhandle, contributing to a wide assortment of charities and community improvement initiatives. The University does not feel that a very occasional patronage of the restaurant for the purpose of hospitality of out-of-state visitors is in any form an improper extravagance. The standard practice of the University President has been to omit names from the hospitality form that is provided to the procurement office. The procurement staff had been told that a record of the names is preserved in the President's Office records and inspection can be provided as needed, but the meetings of the University President are sometimes sensitive and so this effort at discreetness has been utilized. The University will document the visiting scholar by separate cover.

Legislative Auditor Comment

Hospitality forms should be accurately completed with enough detail to support that the purchase was for the benefit of the University.

Shepherd Response: The employee who paid for two missing hotel pillows was not paying for pillows that he personally lost. The employee is the soccer coach of both our men's and women's soccer teams. When the teams have stayed in a hotel and checked out and the hotel insists that something was missing and

charges the credit card, the University has to absorb that expense unless one or more students confess to responsibility for the missing items, but in this case no one did.

Legislative Auditor Comment

Shepherd should require reimbursement from the student/s occupying the room for which damages or lost items was charged.

In response to the statement that the "executive officers of the University were not informed of the scope of the missing document issues," the audit team made multiple requests, listing individual P-card transactions, to Shepherd for documentation and/or for clarification of purchases. These requests were made to the p-card coordinator as requested by Shepherd University's Chief Financial Officer, who was the established audit contact. As to prevent any further misunderstanding or miscommunication, the team will request a list of all university executive officers to be copied on all relevant correspondence concerning the progress of the audit.