

State of New York
Offices of the Inspector General



Investigation of the
New York State Office of Mental Health
Greater Binghamton Health Center

November 2020

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Inspector General

EXECUTIVE SUMMARY

On May 2, 2019, the New York State Office of Mental Health (OMH) alleged to the Office of the New York State Inspector General that Jeffrey Flansburg, the plant superintendent at OMH's Greater Binghamton Health Center (GBHC), used a State credit card to purchase materials for a duct-cleaning project at GBHC without following proper purchasing procedures, which resulted in gross overpayment by OMH to the vendor.

The Inspector General's investigation found that Flansburg used a State credit card to make improper purchases of materials from a vendor at inflated prices while disregarding State requirements that he engage in a competitive bidding process with multiple vendors. In addition, Flansburg arranged with the vendor to bill the State credit card in installments so as not to exceed the card's discretionary purchasing limit and to conceal the aggregate cost of the materials. Flansburg also made questionable update entries in OMH's project management system, claiming the completion of work on the project when, in fact, no work on the project was actually being conducted. Also, the investigation found that Flansburg acted inappropriately with the vendor's sales representative while conducting State business.

The Inspector General recommends that OMH take appropriate disciplinary action against Flansburg. Additionally, OMH should implement greater controls over its purchasing of project materials and project monitoring, and train its employees on the same. Specifically, credit card purchases should be closely scrutinized for improper purchases, inflated pricing, and improperly structured billing arrangements. OMH should issue clear criteria regarding project management system update entries, defining what actions constitute partial, substantial, and project completion. Also, OMH should require that employees making entries in its project management system certify their entries are truthful and accurate. OMH should also periodically remind staff provided with State credit cards of proper procurement procedures and appropriate vendor contact.

The investigative findings regarding Flansburg and GES have been provided to the New York State Joint Committee on Public Ethics (JCOPE) for its review of possible violations of New York State Public Officers Law and the Lobbying Act, respectively. Additionally, the findings regarding the vendor have been provided to the Office of the New York State Comptroller (OSC) and the New York State Office of General Services (OGS) for their review with respect to any future business that the vendor may attempt to conduct with New York State.

Lastly, the Inspector General consulted with an outside entity regarding any civil liability on the part of GES based on its interactions with Flansburg.

BACKGROUND

Greater Binghamton Health Center and Plant Superintendent Jeffrey Flansburg

Greater Binghamton Health Center provides inpatient and outpatient mental health services in New York's Southern Tier region. During the period covered by this investigation, Jeffrey Flansburg was GBHC's plant superintendent.¹ His duties and responsibilities included planning, coordinating and supervising maintenance, repair, and construction activities at GBHC's numerous facilities. To accomplish these tasks, OMH provided Flansburg with a credit card for purchasing commodities and services pursuant to provisions of New York State Finance Law, OGS Procurement Guidelines, and OMH procurement policy.

New York State Finance Law, OGS Procurement Guidelines, and OMH Procurement Policy

New York State Finance Law prescribes the rules State agencies must follow when purchasing commodities and services. OGS Procurement Guidelines were developed by the State Procurement Council to provide guidance to agencies pursuant to State Finance Law. OMH's procurement policies and procedures restate State Finance Law mandates and provide processes for making purchases.

When making purchases, agencies must initially determine if a commodity or service is available from a "Preferred Source," OGS centralized contract, or agency/multi-agency specific contract, respectively.²

When an agency is unable to meet the "form, function and utility" required by the agency through a preferred source, OGS centralized contract, or agency/multi-agency specific contract, the agency may consider making a "discretionary" purchase. Discretionary purchases are not subject to formal competitive bidding requirements.³ Generally, State Finance Law establishes a \$50,000 cap for discretionary purchases by State agencies.⁴ Aggregate purchases of the same

¹ Flansburg was placed on administrative leave by OMH in January 2019. His salary at that time was \$89,206.

² New York State Finance Law provides Preferred Source status to certain entities to advance social and economic goals.

³ New York State Finance Law §§ 162, 163 and New York State Procurement Guidelines, Page 6.

⁴ NYS Finance Law § 163(6). OGS has a \$85,000 discretionary spending cap.

commodity or service within a 12-month period are deemed a single transaction and split ordering is expressly prohibited.⁵ Agencies must also comply with their internal policies and procedures for discretionary purchases, which must include requirements to document and justify the vendor selected, reasonableness of price, and ensure the purchase is from a responsible vendor.

State agencies making purchases over \$50,000 are subject to competitive bidding requirements. They must advertise the intended purchase to potential vendors, collect and evaluate bids based on price, conduct a vendor responsibility review, and maintain supporting documentation for each step of the procurement, among other requirements.⁶ Additionally, prior approval by OSC for purchases over \$50,000 is required.⁷

FLANSBURG MADE INAPPROPRIATE PURCHASES USING A STATE CREDIT CARD AND MADE FALSE ENTRIES IN PROJECT RECORDS

Flansburg Purchased Purported Project Materials at Excessively Inflated Prices

As GBHC's plant superintendent, Flansburg was responsible for maintaining the many facilities on its campus. To carry out these duties, OMH issued Flansburg a credit card and authorized him to make purchases for GBHC. Flansburg's credit card had spending thresholds of \$5,000 per transaction and \$14,000 total per month.

The Inspector General's investigation found that on February 23, 2018, Flansburg submitted a \$150,000 funding request to OMH for a multi-building HVAC duct-cleaning project at the health center. Flansburg testified to the Inspector General that he budgeted the project at \$150,000 based on estimated labor costs of \$100,000 and materials costs of \$50,000.

In fact, Flansburg's estimation of material costs appears to have been concocted and was set by him to avoid adhering to State Finance Law provisions and the scrutiny of the OSC. Moreover, Flansburg testified that the labor on the project was to be performed by his staff during overtime hours but he took no steps in furtherance of this dubious claim. Flansburg also testified he believed that projects budgeted over \$150,000 would be scrutinized by agencies

⁵ NYS Finance Law § 163(6-b).

⁶ NYS Finance Law § 163.

⁷ NYS Finance Law § 112(2)(a).

besides OMH which, in his opinion, would add additional expense for OMH and slow the project approval process.

After review by the GBHC project manager and OMH's director of the Administrative Support Services Group, the Capital Review Committee approved the request on July 11, 2018. According to the GBHC project manager, he relied on Flansburg's representations regarding the cost of labor and materials when approving the request.

In the months prior to receiving funding approval from OMH and despite his estimation of \$50,000 in material costs, Flansburg purchased \$120,769.33 in materials for the project. According to Flansburg, he made these purchases so work could commence immediately after the project was approved.

The purchases were billed to Flansburg's OMH-assigned credit card by three Florida-based entities: Green Earth Supply Company; E.F.P., Incorporated; and Kleen Pro Corporation. Notably, the investigation found that the three companies have a common principal and are collectively known as Green Earth Supply (GES).

The investigation also found that Flansburg paid costs for materials purchased from these companies that greatly exceeded standard retail pricing. Indeed, Flansburg overpaid at least \$68,828.50 — more than 100 percent — for these materials.

For example, Flansburg bought 40 bags of Oil-Dri, an absorbent for liquid spills, at a cost of \$718.75 per 50-pound bag. A review of pricing by other vendors of this product and similar products revealed a reasonable retail price to pay for this product is \$17.34 per bag. By this comparison, OMH paid \$28,750 instead of \$693.60, an overpayment of \$28,056.40. In another example, Flansburg bought 10 cases (each containing four one-gallon containers) of Coil Cleanz, a liquid coil cleaner for HVAC condensers, at a cost of \$1,500 per case. A reasonable retail price for similar products is \$104.88 per case. Here, OMH paid \$15,000 instead of \$1,048.80 — an overpayment of \$13,951.20.

Based on items where accurate retail prices could be found, it appears that GES billed approximately \$72,200 for products with an estimated retail value of \$3,371.50.⁸

⁸ Reasonable retail prices for the remaining \$48,569.33 in purchases were not determined.

When questioned under oath about his purchases of these materials, Flansburg initially testified to the Inspector General that in compliance with OMH procurement policies, he had solicited three bids, and GES had provided the lowest bid and therefore had been awarded the contract. Flansburg further testified that although he had used a notepad to document his solicitation of three vendors, he did not keep his notes.

Subsequently, however, Flansburg admitted that his testimony of his solicitation of vendors was false. When confronted by the Inspector General with the extraordinarily high prices he paid for the materials provided by GES, Flansburg admitted he had lied in his testimony and had purchased the materials from GES without soliciting any bids.

Additionally, a review of GES's billing records for these purchases revealed that although the purchased materials arrived at GBHC in at least four shipments over the course of five months, payments were split over almost 11 months when billed to Flansburg's credit card. In fact, GES's related companies issued at least 25 invoices to OMH for the materials ordered from December 2017 through July 2018. These invoices were often dated within days of one another (see images below).

Kleen Pro Products Invoice

1856 N. Nob Hill Rd Ste 263
Plantation FL 33322
Phone 844-297-7437
info@kleeproproducts.com

Date 3/8/2018
Invoice # 20562

Bill To	Ship To
Greater Binghamton Health Ctr. Accounts Payable 425 Robinson St. Binghamton, NY 13904	Greater Binghamton Health Ctr. Jeffery Flansburg 425 Robinson St. Binghamton, NY 13904

P.O. No.	Terms
Verbal	Due on receipt

Item	Description	Amount
35139	Wholesale- Multi-Purpose Wipes	2,856.37

Total Payments/Credits \$2,856.37
Balance Due USD \$2,856.37

Made in USA Country of Origin - USA

Kleen Pro Products Invoice

1856 N. Nob Hill Rd Ste 263
Plantation FL 33322
Phone 844-297-7437
info@kleeproproducts.com

Date 3/22/2018
Invoice # 20594

Bill To	Ship To
Greater Binghamton Health Ctr. Accounts Payable 425 Robinson St. Binghamton, NY 13904	Greater Binghamton Health Ctr. Jeffery Flansburg 425 Robinson St. Binghamton, NY 13904

P.O. No.	Terms
Verbal	Due on receipt

Item	Description	Amount
35139	Wholesale- Multi-Purpose Wipes <i>9/10 - Wndy</i>	2,798.30

Total Payments/Credits \$2,798.30
Balance Due USD \$2,798.30

Made in USA Country of Origin - USA

Flansburg testified that at his request, GES agreed to provide the materials and then subsequently bill Flansburg's OMH-assigned credit card on a monthly basis so as not to exceed the card's discretionary purchasing limit.⁹ Further, Flansburg testified that while the materials were billed under the duct-cleaning project, some of the materials were intended for general use at GBHC.

The investigation further found that the materials purchased by Flansburg were not used on the project. Instead, they were stored on pallets in a rarely used, unheated garage located on the periphery of GBHC's campus (see below images). The storage of materials in this garage was deemed highly unusual by OMH personnel who were interviewed as part of this investigation, considering there are ample, secure, climate-controlled storage facilities available at GBHC.



The Inspector General found that Flansburg failed to follow both State Finance Law and OMH policy in making these purchases. Specifically, Flansburg did not determine if the materials could be provided by a preferred source, an OGS centralized contract, or through OMH's existing contracts. Nor did he meet the requirements for a discretionary purchase or a purchase using a formal competitive bidding procedure. Additionally, Flansburg acted to conceal his wrongdoing by devising this scheme to keep billing below threshold amounts.

⁹ Although Flansburg's credit card had spending thresholds of \$5,000 per transaction and \$14,000 per month, he testified that he believed the spending threshold was \$10,000 per month.

Moreover, his failure to conduct even basic research regarding the products he purchased contributed to the extraordinarily high prices paid by OMH for the cleaning products.

The investigation also found that Flansburg improperly utilized subordinate employees to evade spending limits — \$5,000 per transaction and \$14,000 per month — placed on his OMH-issued credit card. Specifically, Flansburg testified that when charges to his credit card neared the monthly limit or when he sought to save his monthly limit for use on other projects, he would direct subordinate employees to charge his OMH purchases to their State-issued credit cards instead. A former subordinate of Flansburg testified to the Inspector General confirming this practice.

The Inspector General attempted to interview the GES sales representative and owner about Flansburg's purchases. Upon contacting GES, the Inspector General was advised that the sales representative was out to lunch and would be available to speak shortly. However, when the Inspector General again contacted the company shortly thereafter, its president, Lori Brennan, responded and stated that the sales representative had not been employed with the company for several months. Brennan then refused to provide specific answers to questions posed by the Inspector General about the exorbitant prices her company had charged OMH for purchased materials.

Based on GES's lack of cooperation and candor, the Inspector General was constrained to investigating GES through online research and public records. This research revealed numerous reviews of GES that call into question the integrity of its business practices.¹⁰

Inquiries by the Inspector General to OGS and OSC revealed GES has sold goods to another OMH facility and the New York State Department of Corrections and Community Supervision (DOCCS). Specifically, OMH's Manhattan Psychiatric Center made one purchase from GES in 2018 totaling approximately \$573, and DOCCS purchased goods from GES on three dates between 2018 and 2019, totaling approximately \$2,872. Of note, Manhattan Psychiatric Center placed no further orders with GES after GES failed to adequately respond to inquiries regarding a discrepancy with its order.

¹⁰ See, for example, Better Business Bureau reviews: <https://www.bbb.org/us/fl/fort-lauderdale/profile/house-cleaning-equipment/green-earth-supply-company-inc-0633-90070984/complaints>.

While it is evident that Flansburg engaged in improper conduct with respect to his purchases from GES, because GES was uncooperative with the investigation, the Inspector General was unable to determine whether Flansburg received a financial or other benefit as a result of his purchases. Flansburg denied having any relationship with or receiving any benefit from GES.

Flansburg Engaged In Inappropriate Personal Communications with the Vendor's Representative

After providing testimony to the Inspector General, Flansburg advised the Inspector General that while purchasing materials for OMH, he had engaged in personal communications with the aforementioned GES sales representative in which the representative sent him “provocative” photographs. Flansburg initially advised he would provide these photographs to the Inspector General but subsequently claimed the photographs had been stored on a personal cellular telephone that he no longer owned. The Inspector General reached no conclusion regarding the significance of these “provocative” photographs or whether they influenced Flansburg’s purchase of the overpriced project materials.

Flansburg Made False and/or Misleading Entries in Project Update Logs

In his oversight of the duct-cleaning project, Flansburg was required to make project status entries in the OMH project management system at six-week intervals. These entries are used by OMH to monitor its projects and ensure progress made toward completion.

However, the investigation found that Flansburg’s entries were misleading and designed to conceal the fact that work on the duct-cleaning project was not being completed and that materials ordered for the project were not being utilized. In one instance, Flansburg made a notation in the project management system indicating that project work on one GBHC building had been completed under his project. This in fact was not true. The investigation found that this building had been renovated under a separate project and its ducts cleaned as part of that renovation; no work was done under Flansburg’s duct-cleaning project. In another instance, Flansburg made an entry indicating that a project had been partially completed when, in fact, no labor had been performed on that project and only materials had been received.¹¹

¹¹ OMH employees familiar with the project management system provided inconsistent information to the Inspector General as to whether the ordering of materials for a project could be considered partial completion of a project.

Notably, the investigation also found that employees making entries in the system are not required to certify that their entries are truthful and accurate. OMH should strengthen its monitoring of project progress by implementing this type of control.

GBHC's Review of Credit Card Purchases is Lacking

The Inspector General found that GBHC's review of purchases made on assigned State credit cards is lacking. Although Flansburg's position of authority emboldened him to subvert proper procurement practices and direct others to do the same, his improper conduct continued unchecked for an extended period of time due to a lack of scrutiny of his purchasing records. In fact, the irregularities in his purchases were only discovered by OMH months after the improper purchases were made, and only after Flansburg had been suspended for an unrelated disciplinary matter.

GBHC's credit card purchasing policy indicates that the GBHC Business Office will process and audit payments but does not specifically define what audit functions will be undertaken or how purchasing records will be verified.¹² The policy also does not include guidance for the GBHC Business Office to detect split billings by a vendor by comparing prior and current purchases or the actions to be taken when suspicious purchases are discovered. Had Flansburg's purchasing records been regularly scrutinized, his wrongdoing may have been detected earlier, possibly leading to cost savings for OMH and New York State taxpayers.

THE INSPECTOR GENERAL'S FINDINGS AND RECOMMENDATIONS, AND OMH'S RESPONSE

The Inspector General found that as part of a purported duct-cleaning project at GBHC, Flansburg intentionally subverted required procurement practices, purchased exorbitantly priced materials from a vendor, and entered into an improper payment arrangement with that vendor in an attempt to conceal his actions. Flansburg also made entries in OMH's project management system that were misleading and designed to conceal the fact that work on the duct-cleaning project was not being completed and that materials ordered for the project were not being utilized. The investigation also found that Flansburg engaged in communications with the vendor's sales representative that may have influenced his conduct.

¹² GBHC Business Office Manual, Procurement Card Purchasing, Section Code 1301.

The Inspector General recommends that OMH take appropriate disciplinary action against Flansburg. In response to this recommendation, OMH advised it has commenced disciplinary action against Flansburg.

Additionally, the Inspector General recommends that OMH:

Recommendation #1:

OMH should implement greater controls over its purchasing of project materials and project monitoring and train its employees on the same. Specifically, credit card purchases should be closely scrutinized for improper purchases, inflated pricing, and improperly structured billing arrangements. OMH should regularly audit purchases made by holders of State-assigned credit cards statewide. These audits should occur at regularly scheduled intervals in order to quickly detect, remedy, and deter procurement abuse within the agency.

In response, OMH advised that it will strengthen existing procedures to ensure appropriate controls of hospital-based construction projects such as the one discussed in this report, and implement close review of credit card purchases that relate to construction projects. OMH further advised that it engages in general audits of purchases made with State-assigned credit cards and will continue to do so.

Recommendation #2:

OMH should remind its staff who are provided with State credit cards of proper procurement procedures and appropriate vendor contact and ensure such guidance is given to all new employees upon receipt of a State credit card. In addition, GBHC staff should be trained by OGS on procurement rules and vendor communications.

In response, OMH advised that it will continue to educate its staff who are provided with State credit cards of proper procurement procedures and appropriate vendor contact and ensure such guidance is given to all new employees upon receipt of a State credit card. OMH also advised that it would welcome further OGS training on procurement and vendor communications as necessary.

Recommendation #3:

As OMH employees familiar with the project management system provided inconsistent testimony to the Inspector General as to tasks that could properly count towards project completion, OMH should issue clear criteria regarding project management system update

entries, defining what actions constitute partial, substantial, and project completion. Also, OMH should require that employees making entries in its project management system certify that their entries are truthful and accurate.

In response, OMH advised that although it has clear criteria regarding project management system update entries and routinely communicates this to facility staff such as plant superintendents through meetings, calls, and emails, it will issue formal guidance and remind staff of what actions constitute partial, substantial, and project completion. OMH further advised that it will consider adding a disclaimer to project management system update entries that requires employees to certify their entries are truthful and accurate.

Recommendation #4:

OMH should review its issuance of State credit cards to employees and the spending limits on those cards. This review should ensure that all employees issued State credit cards have a true need for those cards, and that spending limits are appropriate for their job duties. OMH should advise the Inspector General on its development of plans for this review, its commencement and results.

Of note, while the evidence uncovered in this investigation was inconclusive regarding whether GES actually lobbied Flansburg or OMH to purchase its products, such activity could have required GES to register with JCOPE as a lobbyist under New York's Lobbying Act.¹³ Additionally, while the evidence uncovered was inconclusive regarding whether Flansburg met with GES representatives to discuss the contract, such meetings would be required to be reported into the Project Sunlight database under New York's Public Integrity Reform Act (PIRA).¹⁴

The findings regarding Flansburg and GES have been provided to JCOPE for its review of possible violations of New York State Public Officers Law and the Lobbying Act, respectively, and the findings regarding GES and Lori Brennan have been provided to OSC and OGS for their review with respect to any future business that GES may attempt to conduct with New York State. Additionally, the Inspector General consulted with an outside entity regarding any civil liability on the part of GES based on its interactions with Flansburg.

¹³ New York Legislative Law Article 1-a, §1-e.

¹⁴ See New York State Public Integrity Reform Act of 2011, Chapter 399, Part A, §4, Laws of 2011.