

TIER TECHNOLOGIES INC
Form 10-Q/A
April 20, 2005

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-Q/A

Amendment No. 2

FOR QUARTERLY AND TRANSITION REPORTS
PURSUANT TO SECTIONS 13 OR 15(d) OF THE
SECURITIES AND EXCHANGE ACT OF 1934

(Mark One)

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended December 31, 2004

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from _____ to _____

Commission File Number 000-23195

TIER TECHNOLOGIES, INC.

(Exact Name of Registrant as Specified in Its Charter)

California

94-3145844

(State or Other Jurisdiction of

(I.R.S. Employer Identification No.)

Incorporation or Organization)

10780 Parkridge Boulevard, Suite 400, Reston, Virginia 20191

(Address of Principal Executive Offices including Zip Code)

Registrant's telephone number, including area code: (571) 382-1090

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES ☒ NO ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

YES ☒ NO ☐

As of April 15, 2005, the number of shares outstanding of the registrant's Class B common stock was 20,356,461 shares.

EXPLANATORY NOTE

We are filing this Amendment No. 2 on Form 10-Q/A to our Quarterly Report on Form 10-Q for the quarterly period ended December 31, 2004, as filed with the U.S. Securities and Exchange Commission, or SEC, on February 9, 2005, to revise the disclosure required by Item 4 of Form 10-Q in response to comments from the SEC. This Amendment No. 2 on Form 10-Q/A does not change the previously reported financial statements and other financial disclosures included in our Quarterly Report on Form 10-Q.

PART I FINANCIAL INFORMATION

Item 4. Controls and Procedures

Our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of December 31, 2004. Based on this evaluation, our chief executive officer and chief financial officer concluded that, as of December 31, 2004, our disclosure controls and procedures were not effective. This conclusion was based on the existence of the material weakness in our internal control over financial reporting previously disclosed and discussed below.

Other than the events giving rise to the material weakness and our steps to remediate the material weakness, each as described below, no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) occurred during the fiscal quarter ended December 31, 2004 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

As previously disclosed, in connection with the audit of our financial statements for the fiscal year ended September 30, 2004, by PricewaterhouseCoopers LLP, or PwC, our independent registered public accounting firm, PwC informed the Audit Committee and management on December 15, 2004 that they had identified a deficiency in our internal control structure that was considered a material weakness, as defined under standards of the American Institute of Certified Public Accountants. We believe that this material weakness began after we closed our books with respect to the quarter ended June 30, 2004, with the help of certain key members of our Walnut Creek staff acting as consultants, and continued to exist at December 31, 2004, the end of the period covered by this Form 10-Q.

We believe this situation is due primarily to the relocation of our accounting function from Walnut Creek, California to Reston, Virginia and the resulting need to restaff all but one of the positions in that function. As previously disclosed, we relocated our accounting, financial planning, information technology, legal, human resources and facilities management functions to Reston during the quarter ended June 30, 2004, and closed our Walnut Creek facility effective at the end of that quarter. Of our Walnut Creek finance and accounting staff, consisting of approximately 35 full time equivalents at the time of the Walnut Creek closing, only the Chief Financial Officer remained with us following the relocation. Accordingly, during the quarters ended September 30 and December 31, 2004, we were engaged in an effort to fill all of those positions with new personnel. We have not yet filled all of the open positions, and the new staff in the positions we have filled are still becoming familiar with their responsibilities and with our policies and procedures.

Members of our new accounting staff in Reston closed our books with respect to the quarter ended June 30, 2004 with the help of several key members of our Walnut Creek staff, including our former Controller, who agreed to continue to work with us on a temporary consulting basis to help close the quarter.

The turnover of the entire accounting staff, other than the Chief Financial Officer, during our fiscal fourth quarter resulted in the loss of significant knowledge of and experience with our

accounting policies and procedures. This loss of experience, coupled with the incompleteness of our accounting staff, was greater than anticipated and led to increases in the time required to perform control procedures and to develop and analyze information in connection with the closing of our books for the quarter and year ended September 30, 2004. The increase in the time required to close our books caused delays in finalizing our financial statements, which prevented the filing of our Form 10-K for the fiscal year ended September 30, 2004 by December 14, 2004, the filing deadline. PwC advised us that the insufficient personnel resources and technical accounting expertise within our accounting function that caused the delays reflected a material weakness in our internal controls over financial reporting.

On December 15, 2004, we timely filed a Form 12b-25 that provided an extension until December 29, 2004 for the filing of the Form 10-K. We then filed the Form 10-K on December 28, 2004, within the extension period. The Form 10-K included an unqualified audit opinion from PwC with respect to our consolidated financial statements included therein.

Our management and our Audit Committee have developed a plan to remediate the material weakness, which we are in the process of implementing. We expect this remediation will require us to hire additional qualified personnel to fill open positions within the accounting, financial planning, and compliance functions, and to increase the level of accounting expertise of current personnel by means of training. We are actively recruiting to fill the vacancies and are assessing the skill sets of individual members of our accounting and finance staff and of the staff as a whole. We have also concluded that we must ensure that all of our accounting and finance staff are thoroughly trained in the application of our accounting policies and procedures and internal controls.

More specifically, we are actively seeking to fill a newly created position entitled Technical Research and Compliance Manager who will serve as our lead technical research resource in interpreting FASB pronouncements, providing guidance on issues being addressed by the EITF, and following SEC bulletins and PCAOB activity. We are also in the process of filling several other key positions in our finance and accounting departments, including a new SEC Reporting Manager. We are actively seeking candidates for these positions with significant public company experience. We also plan to hire individuals to fill the positions of general ledger accountant, accounts receivable associate, and accounts payable associate. In addition, on February 9, 2005, we announced that we had initiated a search for a new chief financial officer.

Until these positions have been filled, we will rely on additional, periodic monitoring, including: financial reviews of each operating segment analyzing actual against projected performance, balance sheet account reconciliation reviews to identify any unusual items or items that have been outstanding for more than the current period, income statement reviews focusing on variances to plan, forecast, and the prior year and consulting appropriate authoritative accounting literature for any new accounting issues that may arise to ensure that the financial statements are fairly presented in accordance with GAAP.

We are not able at this time to determine the costs of the remediation, but expect to incur additional expenses for staff salaries and other items. Although we are aggressively seeking to fill all the necessary positions, we cannot predict how long it will take to do so, particularly in

light of the very tight job market for experienced accounting professionals in Northern Virginia and throughout the country.

We believe that our material weakness contributed to one adjusting entry following the closing of our books for the year ended September 30, 2004. In connection with the audit of our fiscal 2004 financial statements, we changed our estimate of a previous liability accrual relating to subcontractor costs on a fixed price contract. The result of this change of estimate and the resulting release of the accrual was to decrease both direct costs and total liabilities by \$1.6 million and to increase equity by the same amount.

PART II OTHER INFORMATION

Item 6. Exhibits

(a) Exhibits. See Exhibit Index.

SIGNATURE

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: April 20, 2005

TIER TECHNOLOGIES, INC.

By: /s/ James R. Weaver

James R. Weaver

Chief Executive Officer

EXHIBIT INDEX

Exhibit No.	Description
31.5	Certification of Chief Executive Officer pursuant to Rules 13a-14(a) and 15d-14(a) promulgated under the Securities Exchange Act of 1934, as amended.
31.6	Certification of Chief Financial Officer pursuant to Rules 13a-14(a) and 15d-14(a) promulgated under the Securities Exchange Act of 1934, as amended.