



Internal Audit Report - Systemwide

CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT

Report No. SC-11-02

December 2010



December 9, 2010

ALISON GALLAWAY
Campus Provost/Executive Vice Chancellor

Re: Internal Audit No. SC-11-02 - Conflict of Interest and Conflict of Commitment

Dear Alison,

Internal Audit & Advisory Services (IAS) has completed a UC systemwide review requested by the UC SVP Compliance and Audit Officer to assess the adequacy of internal controls in campus conflict of interest related to research and conflict of commitment management processes, and overall compliance with university policy.

Overall, the university has policies to identify, manage or eliminate potential conflicts of interests that could affect the integrity of research at our institution. Additional policies exist to ensure that faculty members honor their commitment of time and effort to the mission of the university. We found campus internal controls and practices were generally effective in providing compliance with existing university policies.

Campus management was responsive in addressing an observation identified during the review and agreement was reached on the report's recommendation. Normal follow-up will be performed to verify completion of the agreement during the next quarter.

Sincerely,

A handwritten signature in blue ink that reads "Barry Long".

Barry Long, Director
Internal Audit & Advisory Services

Attachment

Alison Galloway
December 9, 2010
Page Two

Distribution:

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Princial Auditor Dougherty
Director Fellows
Assistant Vice Chancellor Peterson

UCSC Audit Committee:

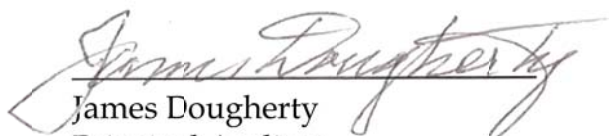
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**CONFLICT OF INTEREST
AND
CONFLICT OF COMMITMENT**

Audit Report No. SC-11-02

December 2010

Approved:


James Dougherty
Principal Auditor


Barry Long, Director
Internal Audit & Advisory Services

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY2

II. INTRODUCTION

 A. Purpose 3

 B. Background3

 C. Scope3

 D. Positives.....4

III. OBSERVATIONS REQUIRING MANAGEMENT CORRECTIVE ACTION

 A. Inaccurate Disclosure of Financial Interest4

APPENDIX A6

I. EXECUTIVE SUMMARY

Internal Audit & Advisory Services (IAS) has completed a UC systemwide review requested by the UC SVP Compliance and Audit Officer to assess the adequacy of internal controls in campus conflict of interest related to research and conflict of commitment management processes, and overall compliance with university policy.

The university has policies to identify, manage or eliminate potential conflicts of interests that could affect the integrity of research at our institution. It has additional policies to ensure that faculty members honor their commitment of time and effort to the mission of the university.

We found campus internal controls and practices were generally effective in providing compliance with existing university policies. Refer to Appendix A for a description of campus processes over conflict of interest related to research and conflict of commitment.

The following issue requiring management corrective action was identified during the review:

A PI did not disclose financial interests when completing a Financial Disclosure Statement related to an NSF-funded research project.

Once informed of this occurrence, the PI provided the appropriate disclosure, satisfying the campus responsibility to comply with NSF disclosure requirements.

Despite effective processes and controls over financial disclosure, there remains a risk that PIs may not fill out the disclosure statements correctly for various reasons, including not giving sufficient attention to the possibility that their research might be related to their significant financial interests. In the case of federally sponsored projects, the annual renewal requirement provides a periodic reminder of this responsibility. A recommendation was made to address the importance for related campus management to ensure their staffs are vigilant in the performance of their disclosure responsibilities.

Our observation and related comments are described in greater detail in Section III of the report.

II. INTRODUCTION

A. Purpose

The purpose of the audit was to assess the adequacy of internal controls in campus conflict of interest related to research and conflict of commitment management processes, and overall compliance with university policy.

B. Background

Conflict of Interest (COI)

University COI requirements are relatively complex and federal regulations in this area are changing and becoming more stringent. The appearance of a COI can undermine public trust, even in situations where mitigating factors are made known to the public.

Research COI Requirements

The state of California and the federal government have established different requirements for disclosure and review, and financial reporting thresholds for research COI disclosures. The California Fair Political Practices Commission requires that UC campuses use Form 700U to obtain disclosure information from principal investigators (PI). A separate federal disclosure form must be completed by the PI and any other individual responsible for the design, conduct or reporting of the results of work performed or to be performed under the sponsored project. If a positive disclosure is made on either form, additional evaluation is completed.

Conflict of Commitment (COC)

Requirements for faculty conflict of commitment disclosures are provided in APM 025: *Conflict of Commitment and Outside Activities of Faculty Members*. Compensated outside professional activities are classified in three categories, based on the extent to which they may potentially raise COC issues. Faculty members must also disclose time spent on compensated Category I and Category II activities annually via the *“Report of Category I and Category II Compensated Outside Professional Activities and Additional Teaching Activities”* (APM 025 report). The department chair is relied upon to recognize a potential conflict, with advice from other university offices as needed.

C. Scope

We followed an audit program provided by the Office of Ethics, Compliance and Audit Services at the Office of the President to evaluate the implementation of those policies at our campus. We reviewed relevant policies; interviewed management and other key personnel; identified and evaluated campus practices for compliance with

policies; evaluated training/direction provided to faculty members; and assessed practices for monitoring reports and disclosures submitted by faculty members.

D. Positives

Campus procedures for complying with conflict of interest in research and conflict of commitment policies were generally adequate. Refer to Appendix A for details on controls and procedures in place to help ensure compliance.

III. OBSERVATIONS REQUIRING MANAGEMENT CORRECTIVE ACTION

A. Inaccurate Disclosure of Financial Interest

A PI did not disclose financial interests when completing a Financial Disclosure Statement related to an NSF-funded research project.

Comments:

We compared 24 APM 025 forms from PIs with their COI disclosure statements and examined them for possible discrepancies and found one. A PI in the Baskin School of Engineering provided a negative (nothing to report) Financial Disclosure Statement related to an NSF-funded research project. However, the auditor learned from discussion with the PI that he had a significant financial interest in an entity that was related to that research project. It therefore appeared that the PI filled out the disclosure statement inaccurately. The auditor explained to the PI that he should fill out a new Financial Disclosure Statement and disclose the relationship between his NSF-sponsored research project and his financial interest, and contact & grant (C&G) officer at the OSP about this. The auditor also notified OSP about this issue and suggested that a C&G officer contact the PI about it. The auditor was notified by OSP that the PI submitted a new Financial Disclosure Statement and that it was being reviewed by ORCA. This satisfied the campus responsibility to comply with the NSF requirement to disclose financial interests related to a research project it is funding.

While reviewing this issue, we discovered that the PI's annual disclosure had expired in March 2010 and was not replaced by an updated disclosure. The OSP database tracks expiration dates for submitted, federally related disclosures and flags those disclosures that will expire within 90 days. This alerts C&G officers to remind PIs to update their disclosures by submitting new Financial Disclosure Statements. This issue is a reminder that PIs need to give these disclosures adequate attention to ensure that they are accurate to the best of their knowledge. C&G officers play an important role in helping PIs do this, including reminders to annually update their federally related disclosures.

Agreement:

OSP management will remind C&G officers of the importance of their role in helping PIs disclose their financial interests to the best of their knowledge, including reminders to PIs to annually update their federally related disclosures.

APPENDIX A - Control Environment and Campus Procedures over Research Conflict of Interest and Conflict of Commitment Disclosure Processes.**Conflict of Interest**

PIs must disclose their financial interests according to policy in order to use funds provided by sponsors. Specifically, the campus created the form "Disclosure of Financial Interests Related to NSF and NIH¹ to comply with disclosure requirements of those federal agencies. Form 700U "Statement of Economic Interests for Principal Investigators," created by the state of California, Fair Political Practices Commission, is used to disclose financial interests in commercial sources of funding for research. Addendums to those forms must be filled out in the event of positive disclosures.

Occasions when PIs must submit these disclosures are when they are applying for a research grant, a licensing or material transfer agreement, or a gift for research. Contract & grant officers of the Office of Sponsored Projects, the director of the Office for Management of Intellectual Property, and development officers of Gift Administration explain the disclosure requirements respectively for each occasion. PIs cannot access sponsor funding or complete licensing or material transfer agreements without submitting completed forms. There is additional documented information on the web that explains these requirements and references policies.

All positive disclosures, i.e. disclosing the presence of relevant economic interests, are forwarded by those three offices to the Office of Research Compliance Administration (ORCA). This office works with the campus Independent Substantive Review Committee (ISRC) to ensure positive disclosures are evaluated and their recommendations are forwarded to the campus reviewing official, who is the vice chancellor for Research; he provides the final approval. The ISRC is composed of five faculty members. We reviewed 13 positive disclosures and found ISRC procedures adequate to ensure compliance with policy. ORCA notifies NIH of positive disclosures, according to an NIH requirement.

The Office of Sponsored Projects (OSP) has a database that records the type of agency that sponsors research. Those agencies for which financial disclosures are required are coded and trigger the disclosure requirement. When C&G officers are in doubt about a new agency, they request the Office of the President to make this determination and enter it in the database. This occurs for principal fund sources, subawards, principal contractors and subcontractors.

For NIH- and NSF-sponsored projects, PIs are required to renew their financial disclosures annually or whenever PIs (or any other 'investigator') acquire new significant financial interests that are related to the PI's NSF/NIH projects but were not included in the original disclosure of financial interest. The OSP database keeps track of the date when

¹ NSF is the National Science Foundation; NIH is the National Institute of Health.

the current disclosure expires and flags it 90 days before expiry. C&G officers respond to the flag by sending their client-PIs a reminder and a copy of the disclosure form. When the OSP receives disclosure renewals, new dates are entered into the database for tracking. Should PIs become aware of a relationship between their research project and their financial interests before annual renewal they can access the disclosure form directly from the OSP website. Statements of economic interests in non-federal, commercial sponsors do not require annual renewal of disclosure.

Conflict of Commitment

Annually, in September, the campus provost writes all senate faculty members, adjunct and visiting professors, deans, and department chairs to remind them of their responsibilities for APM 025 reporting. This letter is closely followed by a letter from the Academic Personnel Office (APO) to deans and department chairs with a list of faculty members in their divisions and departments that are required to submit an APM 025 report, and instructions for those deans and department chairs. Departments are the office of record for these reports and department chairs are responsible for submitting a report to their deans by November 1st that reflects whether the APM 025 report was received and reviewed for each faculty member listed. Deans and department chairs are included on these lists of required annual reports. Deans are responsible to report to the campus provost (via the APO) by November 15th a list of faculty members in their divisions whose annual reports are still outstanding. The campus provost informs by letter each faculty member whose APM 025 report is outstanding, without justification, that they are out of compliance, not in good standing, and establishes a final deadline when the campus provost expects them to complete the required report and submit it to their respective department chairs, who provide a copy to the campus provost. In addition to specific samples of annual reports we reviewed, we also reviewed divisional reports of their faculty members required to submit APM 025 reports that indicated whether faculty members reported or not; whether they engaged in category I or II activities or not, and if so, for how many days; and brief descriptions of those faculty members who did not submit their report.

For the 2009-10 reporting period, the campus provost sent four letters to faculty members whose annual reports were outstanding.

Faculty members are responsible to request permission prior to their engagement in category I outside professional activities. We reviewed samples of these requests for category I activities that must be reviewed by the campus provost in addition to department chairs and deans. We found this review process adequate to comply with policy and help ensure faculty members fulfill their commitment to the university.

The APO provides an orientation for new faculty that includes an explanation of the APM 025 annual reporting responsibilities.