

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES



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Alexander Bustamante
SENIOR VICE PRESIDENT
CHIEF COMPLIANCE AND AUDIT OFFICER

December 3, 2020

INTERIM VICE PRESIDENT LLOYD

RE: Final Report Project No. P20A003: Outside Professional Activities

Attached is a copy of the final report for: Audit Services Project No. P20A003 Outside Professional Activities. With the issuance of this final report, please destroy any previous draft versions. We very much appreciate the assistance provided to us by you and members of your staff during our review. If you should have any questions please feel free to contact me at 510-987-9646 (email: matthew.hicks@ucop.edu).

A handwritten signature in black ink, appearing to read 'Matt Hicks'.

Matt Hicks
Systemwide Deputy Audit Officer

Attachment

cc: Senior Vice President Bustamante
Executive Vice President Nava
Systemwide Associate Audit Director Cataldo
Director Fernandez
Contractor Harrigan

UNIVERSITY OF CALIFORNIA
ETHICS, COMPLIANCE AND AUDIT SERVICES
OFFICE OF THE PRESIDENT
SYSTEMWIDE AUDIT

Outside Professional Activities
Audit No. P20A003
October 2020

Work Performed by:
Contract Auditor Harrigan

Work Reviewed by:
Systemwide Associate Audit Director Cataldo
Systemwide Deputy Audit Officer Hicks

Executive Summary

Introduction

In accordance with the annual audit plan, Internal Audit completed a systemwide audit of 2019 Outside Professional Activities (OPA) of members of the University of California's (UC's) Senior Management Group (SMG). The UC Regents initially established Policy 7707, Senior Management Group Outside Professional Activities, in July 2010. The policy was most recently updated effective January 16, 2019. The most significant policy changes included:

- Pre-approval and post-reporting for uncompensated activities is not required with the exception that uncompensated board activities must be post-reported.
- Pre-approval and post-reporting of compensated activities is required only when compensation is over \$2,500 from a single source.
- Scholarly works, including books, other publications, and speeches are not considered OPA.
- There is no limit to the number of compensated activities a SMG member may participate in, however, an SMG member can only participate in two compensated board activities.

UC has established a systemwide OPA approval and reporting process. SMG members record planned OPA on a paper form, obtain written approval from local approving authorities, and forward the documents to the local Human Resources (HR) SMG Coordinator. If approval is also required from the UC President or the Chair of the Regents, Systemwide Human Resources (HR) is notified and is responsible for any further approval processing. Campus, UCOP, and Lab SMG Coordinators enter data into the Senior Leadership Information System (SLIS). If any new activity is planned after the original OPA submission, policy requires approval be obtained prior to engaging in or announcing the activity.

The policy also states that *“each SMG member must file a mid-year report of all new activity undertaken in the preceding six months. Templates for collecting details for these reports will be distributed by the Office of the President. The mid-year report will be distributed to the President and the Regents’ Committee responsible for oversight of compensation”*.

As part of the annual OPA certification process, SMG members are provided a report generated from the SLIS which lists their reportable OPA details from the previous calendar year. The report identifies whether OPA activity was compensated or uncompensated, total hours of effort, hours of activities during business hours, and vacation debited. If required, the SMG member manually corrects the paper report for any inaccuracies or omissions. The SMG member signs and dates the printed report and submits it to their respective local SMG Coordinator who, if required, updates the information in the SLIS. If an SMG did not plan any OPA and did not have any reportable activities, this is also indicated on the form that is signed and submitted to the SMG coordinator.

Systemwide HR downloads SMG OPA data from SLIS and prepares reports for distribution to the President and the Regents Governance Committee. HR provides both interim and annual reports to the committee. In 2018, SLIS was enhanced to include check boxes to indicate if an activity is considered OPA/approved. Campus SMG Coordinators were instructed to use these

boxes in an effort to reduce the over-reporting of uncompensated OPA which has occurred in prior years.

HR has requested a future enhancement to UC Path to replace SLIS. This enhancement, tentatively scheduled for FY2020-2021, will add OPA request/approval workflow and reporting functions to UC Path which will streamline the process.

Objective and Scope

The primary objective of this audit was to assess the adequacy of internal controls over OPA requests, approvals and reports; and assess compliance with Regents Policy 7707.

As part of our sample, we selected all SMG members who report directly to the Regents and to the President, and a sample of campus, health system, and Lawrence Berkeley National Laboratory (LBNL) SMG members. In total, we reviewed 2019 reported OPA activity for 47 SMG members or 25% of the SMG total (187).

As part of our review, we performed the following steps:

- Reviewed the 2019 annual compensated OPA report to determine if there were material changes from the prior year, and if the Regents had approved any exceptions if there were more than two compensated board memberships.
- Reviewed the draft 2019 report of uncompensated OPA as the final was not available at the time of audit fieldwork.
- Reconciled reported compensated OPA activities to the 2019 California Statement of Economic Interests forms (Form 700) and inquired as to any differences.
- Reviewed SMG 2019 OPA requests, approvals, and year-end certifications to verify requests were completed as needed, required information was provided, and OPA was approved timely.
- Reviewed the Compensated OPA report for the Regents to verify that any SMG member who performed an activity during business hours, either debited vacation or donated the amount to UC or a non-profit. If compensation for a board membership is donated, the activity is considered uncompensated OPA.

For five SMG members where we had questions regarding their compensated OPA, we obtained additional information via questionnaires or email correspondences. Our objectives were to:

- Clarify any inconsistencies between pre-approved OPA and the year-end OPA certification.
- Clarify the reason for any variances between the information on the compensated OPA forms and the California Form 700s.
- Verify that no university resources were utilized related to their activities.
- Determine if the SMG member had any questions or concerns regarding the OPA policy or process.

In reviewing OPA requests and approval dates, we noted the Vice President HR deferred forwarding the requests to the President for approval until after the Regental policy revisions were approved and the campus/Lab SMG Coordinators performed a review to determine if

compensation was over the \$2,500 trigger that required approval. As a result, most 2019 compensated OPA requests requiring approval from the President were not approved until April 2019.

Overall Conclusions

As a result of our audit, we observed general adherence to OPA policy. However, we noted several areas for improvement related to approval and certification timeliness and completeness, reporting, and enhanced record keeping.

For a detailed discussion of the issues, please refer to the subsequent pages of this report.

Opportunities for Improvement and Action Plans

1. Approval was not always obtained for compensated outside professional activities or was not obtained timely.

Regental OPA Policy requires that compensated outside professional activities for SMG members be approved by both the first level manager and the second level manager. Although the OPA process allows for both local HR and Systemwide HR Compensation personnel to receive OPA requests throughout the year, we noted instances in which an SMG certified they had compensated 2019 OPA, but the required approvals had not been obtained or were obtained for a lesser amount.

We specifically noted the following:

- Five SMG OPA requests were missing the President's or a Chancellor's approval. These totaled \$248,700 of compensation for 421 hours of OPA.
- Two SMG's certified OPA hours and amounts exceeded their original estimate. In one instance, the original estimate was not forwarded for approval as it was less than the \$2,500 trigger but the certified OPA exceeded the trigger amount and would have required pre-approval.
- One SMG did not receive approval for 2019 OPA until June of 2020.

For the items above, HR Compensation included all certified OPA hours and compensation in the 2019 OPA report provided to the Regents regardless of the approval status.

Action Plans:

- a. Systemwide HR Compensation will obtain retroactive approval, as needed, for the SMG members 2019 compensated OPA.

Target date: January 31, 2021

- b. Systemwide HR Compensation will provide guidance on required approvals and reporting when actual compensation exceeds the approved estimated compensation, including those instances when the estimated compensation was under the approval trigger of \$2,500 but year-end certified OPA exceeded the threshold.

Target date: January 31, 2021

2. Two reports have not been distributed in accordance with Regents Policy 7707.

Annual uncompensated OPA report – HR Compensation has not finalized and distributed the 2019 report of uncompensated OPA to the Chancellors, the Laboratory Director and the Executive Vice President, Chief Operating Officer as required by Regents Policy 7707. As of October 12, 2020, we noted that the final report for 2019 uncompensated OPA has not been distributed.

During our review, we reviewed the initial OPA requests and the draft report of

uncompensated OPA and noted discrepancies. For example, we found two SMGs had included board memberships on their 2019 OPA request forms but not on their certification forms. We noted the respective organizations web sites indicated they were both active board members indicating that the activities should have been included on the respective certification forms. These discrepancies require verification with the SMGs and possibly revised certification forms, and may also require updates to the SLIS system before the final report can be run and distributed.

Annual report to the President – As of the conclusion of our fieldwork, Systemwide HR has not yet distributed the final annual report to the President as required by policy nor have they received acknowledgments from all locations. The Chancellors, Lab Director, and Executive Vice President, Chief Operating Officer are required to acknowledge receipt of the above uncompensated OPA report and provide written confirmation to Systemwide HR "that no instances of actual or perceived conflict of interest or conflict of commitment were apparent within the reports of all uncompensated OPA for their location." Once received, Systemwide HR should consolidate these confirmations into the annual report to the President.

We noted that one campus chancellor certified all of the 2019 OPA at that campus, both compensated and uncompensated, but the certification did not acknowledge that there were no actual or perceived conflicts of interest. Certifications were not received from the other locations.

Action Plans:

- a. Systemwide HR Compensation will obtain updated certifications, as needed, and prepare and distribute the uncompensated OPA report and the annual report to the President.

Target date: January 31, 2021

- b. Systemwide HR Compensation will request that local Chief Human Resource Officers provide the required management confirmations, including a statement regarding no actual or perceived conflicts of interest, as detailed in the policy, and include this information in the report to the President.

Target date: January 31, 2021

3. Elimination of the OPA Manager position hindered the OPA certification process.

The Systemwide OPA Manager separated from UCOP in August of 2019 and the position was eliminated. The former manager's duties were not reassigned to an existing UCOP employee for several months, and as a result, certifications were not processed timely as the process was not initiated until May 2020. Due to the delay, several SMG members were no longer in their positions. In an effort to help ensure accuracy and completeness, starting the certification process at the beginning of the year would allow HR time to follow-up and obtain outstanding or retroactive approvals or clarify discrepancies with the campuses prior to finalizing the report.

Additionally, a corrective action from the previous year's audit was instituted but not maintained. The former OPA Manager initiated a log of OPA requests and approvals including receipt and notification dates, and documented the process in the OPA Guidelines document. However, given that the former manager's duties were not assigned for several months, and as the HR Compensation Director was not informed or aware of the log or the Guidelines, the process was not maintained.

Action Plans:

- a. Systemwide HR Compensation will coordinate with the local SMG Coordinators to initiate the certification process in January and obtain copies of the SMGs signed certification forms by the end of March.

Target date: April 1, 2021

- b. Systemwide HR Compensation will reinstitute the logging of OPA requests and approvals and update the Guidelines, as needed.

Target date: January 31, 2021