

**UNIVERSITY OF CALIFORNIA DAVIS  
INTERNAL AUDIT SERVICES**

**Office of Research and Office of Academic Personnel  
Conflict of Interest and Conflict of Commitment  
Internal Audit Services Project #11-02**

**December 2010**

**Fieldwork Performed by:**

Tony Firpo, Principal Auditor

**Reviewed by:**

Leslyn Kraus, Associate Director

**Approved by:**

Jeremiah Maher, Interim Director

**Office of Research and Office of Academic Personnel  
Conflict of Interest and Conflict of Commitment  
Internal Audit Services Project #11-02**

**MANAGEMENT SUMMARY**

Due to increased scrutiny on issues surrounding conflict of interest, all UC audit locations including UCD Internal Audit Services (IAS) were requested to evaluate campus compliance with selected UC and campus conflict of interest and conflict of commitment policies, procedures and guidelines. The Sponsored Programs Office within the Office of Research monitors campus compliance with conflict of interest requirements, and the Office of Academic Personnel monitors compliance with conflict of commitment policies, procedures and guidelines.

The State of California and the Federal government require conflict of interest disclosures by Principal Investigators. The State requires that UC campuses use Form 700-U, "Statement of Economic Interests for Principal Investigators," to obtain disclosure information from Principal Investigators (PIs). A separate Federal disclosure form must be completed by PIs on federally sponsored awards. If a positive disclosure is made on either the State or Federal form, additional evaluation is completed to determine how to address the potential conflict of interest.

Conflict of commitment policies are included within Academic Personnel Manual (APM), Section 025, "*Conflict of Commitment and Outside Activities of Faculty Members.*" The policy addresses compensated and uncompensated outside professional and non-professional activities. Outside activities are classified as Category I, Category II or Category III, based upon the extent to which they may potentially raise conflict of commitment issues. Faculty members who wish to engage in Category I activities must submit a written prior approval request. Category I activities normally include: a) assuming a managerial position in an outside business; b) administering a grant outside of the University; c) establishing a relationship as a salaried employee outside the University; and, d) involving a student in outside compensated activities. Annually, faculty members must disclose time spent on compensated Category I and Category II activities by completing a "Report of Category I and Category II Compensated Outside Professional Activities and Additional Teaching Activities."

The purpose of the review was twofold: (1) to evaluate compliance with University, State, and Federal requirements regarding research conflicts of interest; and (2) to evaluate compliance with APM 025.

Our review focused on the following six schools/colleges that have a high number of faculty members engaging in outside activities:

- College of Agricultural and Environmental Sciences
- College of Biological Sciences
- College of Engineering

- College of Letters and Science - Division of Mathematical and Physical Sciences
- School of Medicine
- School of Veterinary Medicine

Audit procedures included reviewing UC and UCD APM 025; reviewing University policies and procedures, and State and Federal regulations regarding research conflicts of interest; interviewing management and other key personnel responsible for developing and implementing policies; evaluating practices for ensuring compliance with the policies; reviewing conflict of interest forms and conflict of commitment forms and supporting documentation; and assessing practices to monitor faculty submissions of advance approval requests and annual disclosures. Our review covered fiscal year 2009-10, and was conducted October through December 2010.

Overall, IAS concluded that Office of Sponsored Programs policies and procedures to monitor compliance with University, State and Federal conflict of interest requirements were satisfactory, as only isolated instances of non-compliance were noted. Regarding compliance with APM 025, IAS did identify a few weaknesses. First, the Academic Personnel on-line system which many faculty use to submit their annual reports lacks documentary evidence to support that the reports have been reviewed by department chairs as required by policy. Although many of the schools/colleges surveyed by IAS indicated that their department chairs and/or dean's office personnel access the on-line system and review the annual reports, the on-line system currently includes no documentation to support whether or not this review has in fact occurred. Second, although very few faculty report engaging in Category I activities, IAS identified technical compliance exceptions in this area, the most significant of which was the fact that three faculty members engaged in Category I outside teaching activities without the pre-approval of the Chancellor or Provost, as required by APM 025. Other less significant issues were also identified during our review, as explained in the body of the report.

**OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT CORRECTIVE ACTIONS****1. CONFLICT OF COMMITMENT**

- A. The Academic Personnel on-line system for submitting annual disclosure reports lacks documentary evidence to support that the reports have been reviewed and approved by department chairs as required by UCD APM 025.**

Annually, all UCD faculty members must submit a report disclosing time spent on Category I and Category II activities. UCD APM 025 section 025-6.b.(4) requires that department chairs “collect and review” these annual reports, ensuring that the activities did not conflict with policy. However, annual reports that are submitted through the Academic Personnel on-line system do not route to, or include documentary evidence of review by, the department chair as required by policy in APM 025. Although many of the schools/colleges surveyed by IAS indicated that their department chairs and/or dean’s office personnel access the on-line system and review the annual reports, the on-line system currently includes no documentation to support whether or not this review has in fact occurred. (Note that the paper-based report, which is Exhibit B to UCD APM 025, includes a space for the department chair to sign and date.)

**Recommendation**

The on-line system should be enhanced to include a feature for the reports to be routed to the department chairs for their review in order to comply with the requirements of UCD APM 025. This review should be documented via an electronic signature or a suitable alternative.

**Management Corrective Actions**

By May 1, 2011, Academic Personnel will add a feature to the on-line reporting system so that annual faculty disclosure reports route to the department chairs. The new routing feature will include an electronic signature or similar alternative to document that the chair has reviewed the form.

- B. Four faculty members within the sample of 24 selected by IAS did not submit their annual APM 025 reports by the November 1<sup>st</sup> due date.**

UCD APM 025 requires that faculty members submit their annual reports of Category I and Category II activities by November 1<sup>st</sup> for the prior fiscal year. In an effort to enhance compliance with the November 1<sup>st</sup> due date, Academic Personnel sends multiple reminders to schools/colleges prior to the due date. This year, Academic Personnel first sent a general notice to the schools/colleges about the reporting process on June 18<sup>th</sup>, then sent a second notice on October 11<sup>th</sup> reminding them of the due date, and then sent a final notice on November 1<sup>st</sup>, indicating that the reports were due and that full compliance was expected no

later than November 12<sup>th</sup>. The deans' offices of the schools/colleges surveyed by IAS indicated that they had procedures in place to monitor departments and follow-up with faculty members as necessary until full compliance with policy was achieved. In spite of these actions by Academic Personnel and the deans' offices, within the sample of 24 faculty members selected by IAS, four had not submitted their reports by November 1<sup>st</sup>. However, of these four late reports, two were submitted on November 3<sup>rd</sup> and the other two were submitted by November 16<sup>th</sup>.

### **Recommendation**

No recommendation is considered to be warranted, as overall, IAS concluded that the notification and follow-up procedures in place within Academic Personnel and the schools and colleges to achieve compliance with APM 025 reporting are considered to be satisfactory, and full compliance was achieved within a reasonable timeframe.

**C. Faculty members who engaged in Category I activities did not adhere to elements of UCD APM 025, the most significant of which was that three faculty members engaged in teaching activities outside of the University without the required approval of the Chancellor or Provost.**

To examine compliance with APM 025 relating to Category I activities, IAS reviewed the activities of eight faculty members engaging in Category I activities, a sample size which represents more than half of all faculty members engaging in such activities among the six schools/colleges within the audit scope. In evaluating compliance with APM 025 for these faculty members, the following four criteria were reviewed: (a) whether the faculty member requested permission, as required; (b) whether the faculty member obtained approval from the proper level of University personnel; (c) whether the faculty member disclosed the Category I activity in the annual report; and (d) whether the annual report was submitted timely.

The most significant finding from this review was that three faculty members engaged in teaching activities outside of the University without the approval of the Chancellor or Provost. While the approval authority for most Category I activities can be, and has been, delegated to department chairs, UCD APM 025 states that the approval authority for outside teaching cannot be delegated to department chairs. In UCD APM 025, the section covering "Chancellor or Provost & Executive Vice Chancellor Responsibilities" states: "Compensated teaching or research at another institution while a faculty member is employed full-time at the University must be approved in advance by either the Chancellor or the Provost & Executive Vice Chancellor. The authority to approve these activities cannot be redelegated." (Two faculty members obtained pre-approval from lower level personnel than policy allows, but one did not request/receive pre-approval from anyone.)

The following table presents the overall results of the review of Category I activities for the eight faculty members selected:

Faculty Member	Permission Requested	Approval Obtained	Disclosure Made in Annual Report	Report Submitted Timely
#1	Yes	Improper Level	Yes	Yes
#2	Yes	Improper Level	No	Yes
#3	No	No	Yes	Yes
#4	Yes	No	Yes	Yes
#5	Yes	No	Yes	Yes
#6	Yes	Yes	Yes	Late
#7	Yes	Yes	Yes	Late
#8	Yes	Yes	Yes	Late

Faculty members #4 and #5 submitted pre-approval requests through the Academic Personnel on-line system, but the requests were never acted upon by their department chairs. Academic Personnel is currently enhancing its process for notifying chairs, and then department administrative personnel, and then deans' office personnel when faculty requests have been submitted and need to be reviewed by the chair.

Finally, it is important to note that because so few faculty members report engaging in Category I activities, the exceptions identified by the audit are not indicative of a widespread problem.

### **Recommendations**

Academic Personnel should formally notify all of the deans' offices that outside teaching activities must be pre-approved by the Chancellor or Provost. No further recommendations are necessary regarding department chair approval, as Academic Personnel is already addressing this issue within its on-line system.

### **Management Corrective Actions**

By February 1, 2011, Academic Personnel will notify all of the deans' offices that outside teaching activities must be pre-approved by the Chancellor or Provost. Also, by May 1, 2011, Academic Personnel will add additional routing features to the on-line system for faculty requests to engage in Category I activities, so that these requests are not inadvertently overlooked by department chairs.

- D. One of two deans selected for review by IAS had not completed an annual report for FY 2009-10.**

As part of this UC system-wide audit, IAS was instructed to include academic deans within the sample selected for testing of compliance with APM 025 reporting; accordingly, IAS judgmentally selected two deans for testing. One of the deans had not completed an annual report, apparently because it was understood by his school/college that his annual Senior Management Group (SMG) Outside Professional Activity Audit Report covering calendar year 2009 was the only report that he needed to complete during 2010. (Note that as of 2010 academic deans are no longer part of the SMG groups at UC campuses.)

### **Recommendation**

Academic Personnel should notify the dean selected during the audit that he needs to submit an annual report for FY 2009-10. Additionally, Academic Personnel should contact all deans' offices at UCD to ensure that each dean has submitted an annual report for FY 2009-10, as other deans may have had the same misunderstanding as the dean selected in the review.

### **Management Corrective Actions**

By February 1, 2011, Academic Personnel will: (a) verify that all deans have filed annual reports for FY 2009-2010; and (b) advise all deans' offices that deans will be required to file annual disclosure reports in the future.

## **E. The due date for the submission of annual faculty APM 025 disclosure reports is incorrectly stated as June 30<sup>th</sup> within one section of UCD policy APM 025.**

There is an internal inconsistency within UCD APM 025 regarding the date by which the annual faculty disclosure reports must be submitted. Under the "Faculty Responsibilities" section of UCD APM 025, item (1) states that the due date for the annual report is November 1<sup>st</sup> of the following fiscal year. However, under the "Department Chair Responsibilities" section, item (4) states that the chair must collect all of the reports from faculty members by June 30<sup>th</sup>. Exhibit B of UCD APM 025, which is the annual report form itself, states that the report must be completed by November 1<sup>st</sup>.

### **Recommendation**

Amend policy UCD APM 025 to be internally inconsistent by changing the date under the "Department Chair Responsibilities" to November 1<sup>st</sup>.

### **Management Corrective Action**

By February 1, 2011, Academic Personnel will update UCD APM 025 with revised dates.

## 2. CONFLICT OF INTEREST

### F. The campus has no policies governing institutional conflicts of interest.

Institutional conflicts of interest represent situations in which the University, members of senior management or affiliated organizations have a financial interest in a company that is associated with University research. Examples include, but are not limited to, investments in start-up companies associated with faculty inventions, ownership in companies that make significant contributions for facilities or endowed chairs, or stock ownership in companies that conduct research at the University. There is currently no UC system-wide policy or UCD campus policy addressing institutional conflict of interest.

#### **Recommendation**

No recommendations or management corrective actions are warranted for this observation, as system-wide guidance regarding institutional conflicts of interest is expected to be forthcoming from UC Office of the President (OP). OP has convened a task force to draft policy for institutional conflict of interest, but no timeline is available as of yet regarding when the policy will be available.

\* \* \*