



AUDIT AND ADVISORY SERVICES

International Visiting Scholars

Audit

Project No. 16-666

August 24, 2016

Prepared by:

Robert Asato
Auditor-in-Charge

Reviewed by:

Approved by:

Jaime Jue
Associate Director

Wanda Lynn Riley
Chief Audit Executive



AUDIT AND ADVISORY SERVICES
Tel: (510) 642-8292

611 UNIVERSITY HALL #1170
BERKELEY, CALIFORNIA 94720-1170

August 24, 2016

Carol Christ
Interim Executive Vice Chancellor and Provost

Paul Alivasatos
Vice Chancellor – Research

F. Scott Bidy
Interim Vice Chancellor – Administration and Finance

Interim Executive Vice Chancellor and Provost Christ and Vice Chancellors Alivasatos and Bidy:

We have completed our audit of international visiting scholars as per our annual service plan in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

Our observations with management action plans are expounded upon in the accompanying report. Please destroy all copies of draft reports and related documents. Thank you to the staff of the Berkeley International Office, Visiting Scholar and Postdoc Affairs Program, and central Payroll Office for their cooperative efforts throughout the audit process. Please do not hesitate to call on Audit and Advisory Services if we can be of further assistance in this or other matters.

Respectfully reported,

Wanda Lynn Riley
Chief Audit Executive

cc: Associate Vice Chancellor and Chief Financial Officer Rosemarie Rae
Vice Provost Benjamin Hermalin
Assistant Vice Provost Heather Archer
Assistant Vice Chancellor and Controller Delphine Regalia
Director Ivor Emmanuel
Director Sam Castaneda
Senior Vice President and Chief Compliance and Audit Officer Sheryl Vacca
Associate Chancellor Khira Griscavage

**University of California, Berkeley
Audit and Advisory Services
International Visiting Scholars**

Table of Contents

OVERVIEW	2
Executive Summary	2
Source and Purpose of the Audit	3
Scope of the Audit	3
Background Information	3
Summary Conclusion.....	5
SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN	7
Monitoring of International Visitors.....	7
Completeness of Information, Tax Reporting and Withholding Status.....	8

OVERVIEW

Executive Summary

The purpose of the audit was to appraise the control infrastructure supporting international scholars such as health and welfare, visas, intellectual property, export control, language, health insurance requirements, and local orientation.

Our assessment focused primarily on visitors sponsored by the campus through the US State Department's J-1 Exchange Visitor Program, specifically through their Professor and Research Scholar and Short-Term Scholar programs. Overall, based on our audit procedures performed, we observe that administrative processes and controls appear adequate to support

- Screening and selecting international program participants
- Pre- and post-arrival requirements
- Federal regulations for program sponsors

We identified the following opportunities for improvement with respect to monitoring of international program participants as well as federal income tax and withholding requirements.

The State Department requires sponsors to monitor participants in the J-1 Exchange Visitor Program. Monitoring of the program participants is the responsibility of the sponsoring campus department, as it would have the most knowledge of the participants' terms of appointment and agreed upon activities and/or deliverables. There is likely an opportunity to reinforce messaging from the Berkeley International Office (BIO) and Visiting Scholar and Postdoc Affairs (VSPA) Program that there should be regular contact between the campus and the international visitor that is commensurate with the nature of what the visitor came to the campus to do.

We evaluated the completeness and consistency of visitor information tracked in information systems used by the VSPA Program, the BIO, and central Payroll. We observe that, in the absence of direct linkages or data feeds between these systems, there is risk that information that is collected or updated in one system may not be updated in other systems that collect the same types of information. In our test sample we identified two examples of data inconsistencies between systems. Although we understand that the costs of creating direct data feeds or linkages between these systems may not be warranted, we believe there is an opportunity for the units using these systems (the VSPA Program, the BIO, and the Controller's Office) to improve means to share information and system access in order to research and correct potential data inconsistencies on a case-by-case, as-needed basis.

We also evaluated the processing of payments to international visitors, with particular focus on evaluation of potential income tax withholding and reporting to the Internal Revenue Service (IRS). Currently, the campus provides international visitors access to the GLACIER system so that they can complete their profile and provide documentation for their current immigration and tax reporting status. In our sample of five visitors for this area, we identified one visitor's situation where income tax withholding should have been made on two fellowship payments but were not. We conclude that although established processes and controls appear to be designed appropriately to ensure nonresident tax compliance they were not operating effectively as of the date of testwork.

Source and Purpose of the Audit

The purpose of the audit was to appraise the control infrastructure supporting international scholars such as health and welfare, visas, intellectual property, export control, language, health insurance requirements, and local orientation. As the Berkeley Global Campus at Richmond Bay comes on line, one can expect the presence of international scholars to increase, therefore, it is important that the campus address the current and emerging risks as the campus prepares to welcome a growing number of international scholars.

Scope of the Audit

The audit scope included examining internal controls in the areas of

- Screening and selecting international program participants
- Pre- and post-arrival requirements
- Monitoring of international program participants
- Federal income tax reporting and withholding
- Federal regulations for program sponsors

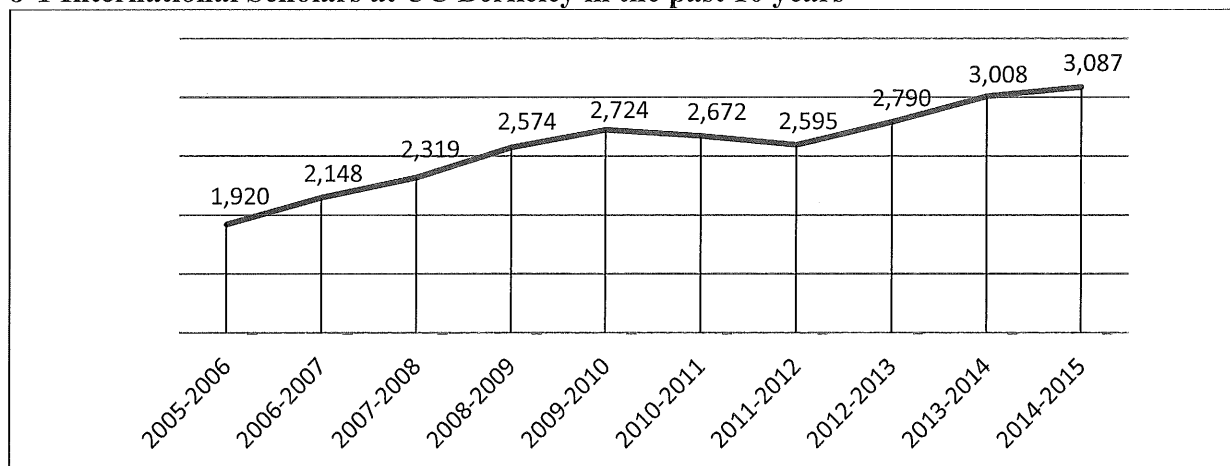
Audit techniques included interviews with departmental personnel in the BIO, the VSPA Program, and central Payroll regarding the description of current control activities and testing of a sample of participants to verify the adequacy of internal controls and compliance with federal regulations. Our assessment is as of May 2016 and focused primarily on visitors sponsored by the campus through the State Department's J-1 Exchange Visitor Program, specifically through their Professor and Research Scholar and Short-Term Scholar Programs. We excluded visitors to the campus on F-1 student visas from our audit as the purpose of their visit to the campus is education.

Background Information

During the recent decade, the campus has hosted thousands of international scholars representing over 100 countries. These international visitors are not only diverse in their backgrounds but diverse in their fields of research and teaching with over 20 areas of study.

Specifically for international scholars sponsored on a J-1 exchange visa, the graph below shows the annual growth in this population for the past 10 years.

J-1 International Scholars at UC Berkeley in the past 10 years



Source: *Annual Report of International Visiting Scholars, Berkeley International Office, 2016*

Accommodating international visitors takes the coordination of various campus units and the knowledge of campus requirements and federal regulations as it pertains to their area of service. These requirements and regulations can be complex, however, resources from the campus, State Department, and US Department of Labor can assist in the administration of a successful program while mitigating associated risks to the university.

Berkeley International Office

The BIO provides visiting students and scholars with visa advising and immigration services, training and support for the campus departments working with international visitors, and programs and workshops for students and scholars to assist in their transition to the university.

The BIO director is the campus designated official responsible for compliance with federal regulations related to the international exchange program. For example, the BIO director is responsible for overseeing the production of the Certificate of Eligibility for Exchange Visitor Status (form DS-2019). The DS-2019 identifies the international visitor and their designated sponsor and provides a brief description of the visitor's program including the start and end date and sponsor information. This form is a State Department controlled document that can only be produced through the Student and Exchange Visitor Information System (SEVIS), the US Department of Homeland Security (DHS) database by which student and scholar data is transmitted directly to the DHS.

Additional regulatory requirements for which campus and the BIO are responsible include accreditation and licensure, staffing and support of visa services, annual reporting, and monitoring of participants.

Visiting Scholar and Postdoc Affairs Program

The VSPA Program works to foster a robust research community, enhance the research experience at UC Berkeley, and provide the research community with consistent delivery of services, benefits, and privileges. The VSPA Program assists visiting scholars, visiting researchers, and postdocs in their pursuit of both professional and personal interests by connecting program participants to campus and local resources in support of their appointment. Additionally, the VSPA Program assists in the acclimation to the campus and surrounding

community by offering career and professional development events, workshops and resources, language classes, as well as regularly programmed networking socials. The VSPA Program works with both domestic and international scholars and postdoctoral scholars.

The VSPA Gateway is a web-based pre-arrival application system that facilitates the admission process and issuance of appointment letters for visiting scholars, visiting researchers, and postdoctoral scholars. The VSPA Program also monitors and approves visiting scholar disbursement requests for living expenses up to \$10,000 per calendar year with the campus central Payroll Office. The visiting scholar disbursements requests also assist affiliates with their travel costs and incidental research expenses.

Central Payroll Office

GLACIER is a software product from Arctic International LLC used systemwide to collect and evaluate information provided by nonresident aliens to determine necessary steps to ensure compliance with US tax withholding and reporting requirements by the university. As GLACIER is a standalone, web-based, third-party software product that does not receive automatic data feeds from campus systems, it relies upon manual entry of information in order to appropriately evaluate and determine tax withholding and reporting requirements, residency status, and tax treaty eligibility. For GLACIER to provide a comprehensive and accurate determination of requirements that the campus must follow with respect to each individual international visitor, a profile for that individual needs to be completed.

The Payroll Office is responsible for the maintenance and completeness of GLACIER records and provides resources for the campus and foreign visitors for navigating the GLACIER system. However, as mentioned above, Payroll must rely on the international visitor for profile information in order for GLACIER to conduct an analysis of the individual's situation. The Payroll Office also has tax analysts who are available to advise and answer questions from campus departments and foreign visitors about IRS tax withholding and reporting requirements, but they are not in a position to provide individual tax advice.

Summary Conclusion

Overall, based on our audit procedures performed, we observe that administrative processes and controls appear adequate to support

- Screening and selecting international program participants
- Pre- and post-arrival requirements
- Federal regulations for program sponsors

We identified the following opportunities for improvement with respect to monitoring of international program participants as well as federal income tax and withholding requirements.

The State Department has established certain requirements for sponsors to monitor participants in the J-1 Exchange Visitor Program. Sponsors of international visitors are required to monitor their participants' physical location (site of activity), progress and welfare to the extent appropriate, and to ensure their participants' activities are consistent with the category indicated on their State Department Certificate of Eligibility for Exchange Visitor (DS-2019) status.

Based on discussions with the VSPA Program and the BIO, the monitoring of the program participants is the responsibility of the sponsoring campus department as it would have the most knowledge of the participants' terms of appointment and agreed upon activities and/or deliverables.

Although we do not believe that a formal program of scheduled meetings or check-ins should be required for international visitors, there is likely an opportunity to reinforce messaging that there should be some regular contact between the campus and the international visitor that is commensurate with the nature of what the visitor came to the campus to do. The messaging could be in the form of communications, instructions, trainings, and orientation from the VSPA Program and the BIO to the faculty sponsors, respective campus departments, and international visitors.

We evaluated the completeness and consistency of visitor information tracked in information systems used by the VSPA Program, the BIO, and central Payroll. We observe that, in the absence of direct linkages or data feeds between these systems, there is risk that information that is collected or updated in one system may not be updated in other systems that collect the same data field. In our test sample, we identified two examples of data inconsistencies between systems. Although we understand that the costs of creating direct data feeds or linkages between these systems may not be warranted, we believe there is an opportunity for the units using these systems (the VSPA Program, the BIO, and the Controller's Office) to improve means to share information and system access in order to research and correct potential data inconsistencies on a case-by-case basis.

We also evaluated the processing of payments to international visitors, with particular focus on evaluation of potential income tax withholding and reporting to the IRS. Currently, the campus provides international visitors access to the GLACIER system so that they can complete their profile and provide documentation for their current immigration and tax reporting status. In our sample of five visitors for this area, we identified one visitor's situation where income tax withholdings should have been made on two fellowship payments but were not. We conclude that although established processes and controls appear to be designed appropriately to ensure nonresident tax compliance they were not operating effectively as of the date of testwork.

SUMMARY OF OBSERVATIONS & MANAGEMENT RESPONSE AND ACTION PLAN

Monitoring of International Visitors

Based on discussions with the VSPA Program and the BIO, the monitoring of program participants is not formally performed by their offices. Both offices commented that the monitoring of the program participants is the responsibility of the sponsoring campus department, as it would have the most knowledge of the participants' terms of appointment and agreed upon activities and/or deliverables.

The State Department has established certain requirements for sponsors to monitor participants in the J-1 Exchange Visitor Program. In accordance with the Code of Federal Regulations, 22 CFR 62.10(e), sponsors of international visitors are required to monitor their participants' physical location (site of activity), progress and welfare to the extent appropriate, and to ensure their participants' activities are consistent with the category indicated on their Certificate of Eligibility for Exchange Visitor (DS-2019).

International visitors coming to the campus as part of the J-1 program often come under the Professor and Research Scholar or Short-Term Scholar programs. As opposed to the H-1B visa program, the J-1 program is not an employment visa. As a result, the relationship between the campus and visitor is not an employer-employee relationship and the nature of research scholarship may not be one where there is regular daily interaction or supervision with a departmental or faculty sponsor.

Although we do not believe that a formal program of scheduled meetings or check-ins should be required for international visitors, there is likely an opportunity to reinforce messaging in communications, instructions, trainings, and orientation from the VSPA Program and the BIO to both departmental and faculty sponsors as well as to visitors that there should be some regular contact between the campus and the international visitor that is commensurate with the nature of what the visitor came to the campus to do in order to minimize the risk that sponsored international visitors exhibit behaviors that would jeopardize our future participation as a J-1 program sponsor.

Management Response:

Berkeley International Office Response

The Berkeley International Office recognizes the risk when there is not sufficient oversight of its international visitors. We do engage in on-going orientations/trainings informing department contacts as well as the visitors of this obligation. To strengthen this effort, we recently revised the Host Department Agreement Form and included in it actual language taken from the regulations that speak to the monitoring requirement. That form can be viewed at the following link:

<http://internationaloffice.berkeley.edu/sites/default/files/shared/docs/j-host-dept-agreement.doc>.

In addition, we will strengthen our messaging at the Scholar Information Meeting that is required of all visiting researchers. Furthermore, we will include this information in our periodic (quarterly) communications to department contacts reminding them of the requirement that their international visitors' progress must be monitored on an on-going basis. Additionally, we will engage in targeted meetings to ensure that departments are adhering to these requirements.

Visiting Scholar and Postdoc Affairs Program Response

1. Approval Letter

Currently, postdocs and visiting scholars receive an approval letter generated from the Visiting Scholar and Postdoc Affairs (VSPA) Gateway. This letter is sent to the VSPA Gateway preparer. There is a customized feature that allows the VSPA Gateway preparer to add faculty sponsors so that they can get a copy of the same letter.

In the future, the VSPA Gateway will be programmed so that all faculty sponsors will receive a copy of the approval letter. Additionally, the letter will be amended to reflect instructions for the faculty sponsor to set up an initial arrival meeting as well as regularized meetings throughout the research stay. The VSPA Program plans to have this action completed by March 31, 2017.

2. VSPA Gateway Application

The VSPA Gateway application will be amended so that the first question to the VSPA Gateway preparer is: "Did you confirm that the faculty sponsor is aware of their responsibility to meet with the affiliate upon arrival and throughout their research stay?" The VSPA Program plans to have this action completed by March 31, 2017.

3. VSPA Gateway Preparer/Approver Training

Annual training will now include instructions for VSPA Gateway preparers to confirm that the faculty sponsor is aware of their responsibility to meet with the affiliate upon arrival and throughout their research stay. This confirmation should be documented. The VSPA Program plans to have this action completed by October 31, 2016.

Completeness of Information, Tax Reporting and Withholding Status

As part of our fieldwork, we evaluated the completeness and consistency of visitor information tracked in information systems separately by the VSPA Program (VSPA Gateway), the BIO (International Scholar Dossier), and central Payroll (GLACIER). The VSPA Gateway tracks departmental requests for sponsoring domestic and international visitors, letters of invitation and approval, and their appointment information. The International Scholar Dossier (ISD) tracks immigration information including visa applications and current immigration status. GLACIER, used systemwide, contains information relevant to determining the tax withholding rates for the visitor. These three systems collect certain types of information that exist in the other systems but are not currently linked to ensure that information in one is consistent with the others. We observe that, in the absence of direct linkages or data feeds between these systems, there is risk that information that is collected or updated in one system may not be updated in other systems

that collect the same data field. In our specific sample of six visitors for this area, we identified that

- For one research scholar, we found no GLACIER record. According to current payroll reports, this J-1 Research Scholar has been paid as a Physics department postdoc since December 31, 2011. Management asserts that there was a GLACIER record in 2012, but it was terminated.
- For one postdoc, their GLACIER record was not updated to reflect their most recent change in visa type recorded in International Scholar Dossier.

Although we understand that the costs of creating direct data feeds or linkages between these systems may not be warranted, we believe there is an opportunity for the units using these systems (the VSPA Program, the BIO, and the Controller's Office) to improve means to share information and system access in order to research and correct potential data inconsistencies on a case-by-case, as-needed basis.

We also evaluated the processing of certain types of payments to international visitors, with particular focus on evaluation of potential income tax withholding and reporting to the IRS. Currently, the campus provides international visitors access to the GLACIER system so that they can complete their profile and provide documentation for their current immigration and tax reporting status. In our sample of five visitors for this area, we identified that for one visiting scholar there were no federal tax withholdings for two fellowship payments in the amount of \$3,100 each.

We conclude that established processes and controls appear to be designed appropriately to ensure nonresident tax compliance, although it requires voluntary participation of the visitor to provide certain categories of information. However, the processes and controls were not operating effectively as of the date of testwork.

In terms of tax compliance and financial risk, the campus, as the withholding agent, is required to withhold tax based on residency status, nature of payment, and the application of relevant tax treaties and to annually report activity to the IRS. The IRS does hold the university liable for taxes due if tax withholding is not accurate.

Our understanding from discussions with management in the Controller's Office is that they take a conservative position to apply maximum withholding for payments subject to withholding in the absence of sufficient documentation in GLACIER that allows a lower or no withholding amount. We agree that this appears to be a prudent approach. However, to the extent that GLACIER records for international visitors are not complete or not updated timely by the individual when they have a change in status, there remains some risk that tax withholding and reporting may be based upon incomplete or inaccurate information provided.

Management Response:

Central Payroll Office Response

UC Berkeley currently has 5,000 records in the GLACIER database and status is used for payroll payments, scholarship/fellowship payments, and other payments made via the Berkeley Financial System (BFS). It is a very manual process as there are no system interfaces.

There was a BFS coding issue due to training a new person with the two payments to the visiting scholar and tax withholding did not occur. This meant that UC Berkeley was liable for the tax withholding amount and corrective transactions have been processed. The importance of verifying withholding amounts on complicated transactions has been reviewed with the processors.

The GLACIER record for the Physics department postdoc has been initiated and documents requested from the employee. The withholding amounts for the employee have been corrected.

For the other postdoc, the GLACIER record shows wage/compensation as the payment type so the tax withholding on the payroll payments is correct. This employee, however, had a visa change from F-1 to H-1B that is not reflected in the documentation. This change does not impact the current withholding, however, we have requested a GLACIER record update.

Central Payroll will review the data available from the ISD and VSPA systems to look for ways to help monitor GLACIER data accuracy. This will be completed by March 31, 2017.

Berkeley International Office Response

We are in agreement that in relationship to international visitors, UC Berkeley should ensure that we are in compliance with all federal, state and local laws and regulations. The Berkeley International Office is willing to partner with campus units to minimize financial risk by adhering to best practices. With adequate controls in place we are open to providing campus personnel access to the department's database containing international visitor records. This action can be taken at any time when it is deemed useful and necessary. It will entail training and this can be made available at the convenience of our partners. We will also conduct a 360 degree review of our print and on-line materials with an eye towards including more information about the tax obligations of our international visitors and the steps they can take to maintain compliance. This will be an on-going effort but we will conduct the first round of changes prior to the arrival of the international visitors for the new 2016-2017 academic year and no later than mid-August.

Visiting Scholar and Postdoc Affairs Program Response

1. VSPA Monthly Orientation

The VSPA monthly orientation which presents administrative and research resources to VSPA Program affiliates will include a PowerPoint slide with regard to GLACIER. This will encourage international affiliates to go on-line to register their citizenship and residency information so that UC Berkeley can tax any income appropriately. The VSPA Program plans to have this action completed by July 31, 2016.

2. Viewing Access to the VSPA Gateway

In order to assist central Payroll staff with stipend or payroll transactions, they will receive viewing access to the VSPA Gateway. The VSPA Program plans to have this action completed by March 31, 2017.