

The logo for UCI Irvine, featuring the letters 'UCI' in a large, bold, serif font, followed by 'IRVINE' in a smaller, all-caps, serif font. A vertical line separates the two parts of the name.The text 'INTERNAL AUDIT SERVICES' in a serif font, positioned to the right of the UCI Irvine logo.

Systemwide Audit of Foreign Influence

Internal Audit Report No. I2020-206

May 26, 2021

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May 26, 2021

**BRUCE MORGAN
ASSOCIATE VICE CHANCELLOR FOR RESEARCH ADMINISTRATION
OFFICE OF RESEARCH**

RE: Systemwide Foreign Influence Audit
Report No. I2020-206

Internal Audit Services has completed the review of the Systemwide Foreign Influence Audit and the final report is attached.

We extend our gratitude and appreciation to all personnel with whom we had contact while conducting our review. If you have any questions or require additional assistance, please do not hesitate to contact me.

Sincerely,



Mike Bathke
Director

Attachment

C: Audit Committee
Marianne Liu Beckett, Assistant Vice Chancellor – Academic Personnel
David Gibbons, Interim Executive Director – UCI Beall Applied Innovation

I. BACKGROUND

In early 2018, the National Institutes of Health (NIH) and the National Science Foundation (NSF), amongst other Federal funding agencies, began to raise awareness of undue foreign influence on research integrity. The federal government is also paying close attention to foreign influence at institutions of higher education.

The primary thrust of the U.S. government's concerns fall into four areas:

- I. Peer review violations
- II. Failure to disclose substantial foreign resources:
 - a. Foreign employment arrangements
 - b. Foreign grant support: creates problems with overlap, over-commitment
 - c. Non-disclosure of substantial foreign research support including free labor such as visiting scholars and students funded by a foreign source
 - d. Talents awards
 - e. Foreign grants – Hidden transfers of information, know-how, data, person-time
- III. Failure to disclose significant foreign financial interest:
 - a. Equity in foreign companies
 - b. Foreign patents that leverage US taxpayer funded work
- IV. Compliance with U.S. export control laws and regulations

University of California (UC) observed increased concern regarding foreign influence in academia within the federal government and among UC peer institutions. Federal funding agencies have issued new requirements and guidance, federal law enforcement agencies have increased prosecutorial activity, and Congress has passed new legislation and sought information on how the academic research community is responding to this evolving issue. In addition to the NIH and NSF grant policies and the federal Financial Conflict of Interest (FCOI) regulation, UC has existing policies to manage conflicts of interest and conflicts of commitment.

In accordance with the fiscal year (FY) 2019-20 Internal Audit Plan approved by the UC Board of Regents, the Office of Ethics, Compliance and Audit Services (ECAS) performed a systemwide audit of foreign influence in coordination with campus internal audit departments. This audit was identified as a key component of the University's systemwide compliance plan for foreign influence.

II. PURPOSE, SCOPE AND OBJECTIVES

The purpose of the systemwide audit is to evaluate the system of internal controls in place to manage risks identified by the federal government related to foreign

influence. The scope of the audit included activities in the following areas relevant to foreign influence risk:

- Conflicts of interest
- Conflicts of commitment
- Export controls
- Sponsored programs/grant processing
- Development and alumni relations
- Visas for international scholars and student/graduate studies
- International activities
- Academic departments and faculty
- Intellectual property security and control
- Training
- Policy

Most of the audit work involved interviews with relevant campus personnel to gain an understanding of processes, controls, and monitoring mechanisms in place to mitigate risks associated with foreign influence. This consists of reviewing processes in place that identify and respond to noncompliance with required disclosures related to conflicts of interest, conflicts of commitment, and other support. The support processes reviewed include training and awareness programs, how positive disclosures are handled and managed, monitoring and/or reconciliation of disclosure information, third party screening, escalation procedures when discrepancies or other concerns are identified, record keeping procedures, and mechanisms to secure pre-publication data and research space.

Additionally, the auditors selected a sample of grants and compared information in grant documents, sabbatical records, and publications to evaluate the accuracy of other support and affiliation reporting.

NOTE: UC Irvine's Internal Audit Services (IAS) could not complete this portion of testing due to the COVID-19 pandemic and subsequent issue of staff working remotely. A handful of Conflict of Commitment and Conflict of Interest disclosure forms are in paper format only and are located in offices on campus. Staff have limited access to these documents; however, once staff are able to return to their offices and provide the requested information, IAS will complete the remainder of the testing.

III. CONCLUSION

While foreign influence processes vary from campus to campus, IAS observed that, in general, the UC Irvine campus does have certain controls over the foreign influence process to address compliance with policy. However, our audit identified opportunities to strengthen policies and procedures related to foreign influence risks in the following areas:

- Protocols to identify potentially undisclosed faculty affiliations.
- The compliance function’s oversight of the financial conflict of interest process.
- Policies and procedures to ensure that all individuals that submit research proposals on behalf of the University also submit complete conflict of commitment disclosures within required timeframes.
- Training and awareness efforts regarding foreign influence risk and researcher disclosure requirements.
- Consistency and effectiveness of restricted party screening processes.
- Processes to identify and address export control red flags for agreements.
- Vetting of international scholars.
- Research data protection protocols.
- Oversight of foreign gift and contract reporting.
- Ensure “other support” foreign relationships such as sabbatical visits to foreign institutions and adjunct professorship appointments with foreign entities are disclosed to NIH.

IAS is working with the local stakeholders to address appropriate management corrective actions (MCAs) and target dates for each applicable recommendation using a standardized template. IAS will coordinate with ECAS to ensure the MCAs are appropriately addressed and resolved in a timely manner. IAS has added these opportunities for improvement and associated recommendations in the response to the systemwide audit as Attachment A.

IV. OBSERVATIONS AND MANAGEMENT ACTION PLANS (Attachment A)

Recommendation	Management Corrective Action	Target Date
1. Protocols to Detect Undisclosed Faculty Affiliations		
1.2 Evaluate the recommended baseline institutional protocols and modify them as necessary vis-à-vis their own infrastructure, resources, and communication and IT systems to implement them locally. For example, templates developed by the working group could be tailored to meet local needs.	Office of Research Reconvene the Foreign Influence Work Group (or a subgroup) to evaluate the UCOP-issued baseline institutional protocols, conduct a gap analysis, generate recommendations for closing identified gaps, and present them to UCI leadership for review and, approval, and implementation.	May 1, 2022 or within ten months of receiving the final baseline institutional protocols from UCOP.

Recommendation	Management Corrective Action	Target Date
2. Conflict of Interest		
<p>2.1 Implement protocols at the campuses, health systems, and LBNL to ensure that the compliance function (CECO and HCCO) regularly receives information (such as copies of determination letters sent to PIs after identification of significant financial interests in foreign entities) and is engaged, as appropriate for each location, on significant conflict of interest issues and management plans. An example of engagement by the compliance officer could be ex-officio membership on a financial conflict of interest committee.</p>	<p><u>Office of Research</u> Meet with the Chief Ethics and Compliance Officer (CECO) and Health Care Compliance Officer (HCCO) to discuss and implement an appropriate process for informing and engaging them on significant conflict of interest issues and management plans.</p>	<p>December 15, 2021</p>
3. Conflict of Commitment		
<p>3.6 Evaluate the protocols and measures developed to help ensure complete and timely submission and review of outside activity disclosures vis-à-vis their own infrastructure resources, and communication and IT systems to implement these or other measures to achieve the same goal.</p>	<p><u>Academic Personnel</u> Evaluate and implement the systemwide protocols and measures developed to help ensure complete and timely submission and review of outside activity disclosures. A plan to implement the protocols and measures will be developed and modified as necessary to meet local needs. Additionally, with two years of user cycle data, Academic Personnel will conduct a data audit in March through June 2021 to check compliance rate and create follow-up plans to increase compliance.</p>	<p>December 30, 2021 or within six months of receiving the systemwide protocols and measures.</p>

Recommendation	Management Corrective Action	Target Date
3.7 Evaluate the best practice solutions for institutional office compliance monitoring recommend by the Outside Activities Tracking System (OATS) Governance Board and modify them as necessary to implement them locally.	<u>Academic Personnel</u> Evaluate the best practice solutions for institutional office compliance monitoring recommended by OATS Governance Board and modify them as necessary to implement them locally. Currently, Academic Personnel has the authority to grant “auditor” status to campus offices to access data in UCOATS.	December 30, 2021 or within six months of receiving the best practice solutions recommended by the OATS Governance Board.
4. Training and Awareness		
4.6 Implement the system-developed “Ethics and Compliance Briefing for Researchers” training module and require all faculty and departmental administrative staff to complete the training biennially.	<u>Office of Research & CECO/Office of Compliance</u> Determine the most appropriate delivery method and roll out the “Ethics and Compliance Briefing for Researchers” training module in accordance with UCOP requirements and guidance regarding audience and frequency.	October 30, 2021 or within six months of receiving the final training module from UCOP.
4.7 Address consequences for non-compliance with the completion requirement for the mandatory systemwide training.	<u>Office of Research & CECO/Office of Compliance</u> The training module implementation plan will address consequences for non-compliance.	October 30, 2021 or within six months of receiving the final training module from UCOP.
4.8 Implement a local foreign influence risk communication plan, taking into consideration the systemwide guidance	<u>Office of Research</u> Reconvene the Foreign Influence workgroup (or a subgroup) to assess the systemwide guidance and develop a framework for implementing it. As necessary, make recommendations to UCI leadership regarding needed resources for carrying out a campus communication plan on responsible international engagement.	October 30, 2021 or within six months of receiving the final guidance from UCOP.

Recommendation	Management Corrective Action	Target Date
5. Restricted Party Screening		
<p>5.3 Create and implement export control procedures as outlined in the UC export control policy. At a minimum, these procedures should include:</p> <ul style="list-style-type: none"> • Defined roles and responsibilities for restricted party screening as outlined in the export control policy • Escalation procedures for positive screenings • Periodic ECO monitoring to ensure that the responsible parties are performing these procedures. 	<p><u>Office of Research</u> Conduct a comparative analysis of UC Export Policy and Sec. 480-20: Guidelines for Compliance with Export Control Regulations, submit the following to the Vice Chancellor for Research for approval :</p> <ol style="list-style-type: none"> 1. Required changes to Sec. 480-20 to align with UC Export Control Policy-to be issued as policy (revised 480-20) 2. Procedures for escalating positive restricted party screening results, and 3. Procedure for monitoring responsible parties to ensure that they are performing restricted party screenings. 	<p>October 31, 2021</p>
<p>5.4 Implement the system-developed training module to educate faculty and staff on the importance and requirements of restricted party screening</p>	<p><u>Office of Research (lead unit) & other units and offices based on required expertise</u> Determine the most appropriate delivery method and roll out the systemwide training module on restricted parties in accordance with UCOP requirements and guidance regarding audience and frequency.</p>	<p>June 30, 2022 or within six months of receiving the final systemwide training from UCOP.</p>
6. Export Control Red Flags		
<p>6.2 Implement written procedures to address red flags in accordance with systemwide guidance, including escalation procedures that are specific to the location.</p>	<p><u>Office of Research & CECO/Office of Compliance</u> Evaluate and implement written procedures to address systemwide guidance on red flags, including escalation procedures</p>	<p>June 30, 2022 or within six months of receiving the final systemwide guidance from UCOP.</p>

Recommendation	Management Corrective Action	Target Date
<p>6.3 Develop localized training on the red flags procedures leveraging the systemwide training content and implement the training for appropriate personnel.</p>	<p><u>Office of Research (lead unit) & other units and offices based on required expertise</u> Develop localized training on the red flag procedures for appropriate personnel, by leveraging the systemwide training content.</p>	<p>June 30, 2022 or within six months of receiving the final systemwide guidance from UCOP.</p>
<p>7. Vetting of International Scholars</p>		
<p>7.2 Implement the systemwide guidance, vis-à-vis the location’s infrastructure, resource, communication and IT systems, etc., in the form of local procedures, which should include escalation procedures that are specific to the location.</p>	<p><u>Office of Research</u> Reconvene the Foreign Influence Work Group (or subgroup) to evaluate the systemwide guidance, conduct a gap analysis, generate recommendations for closing any identified gaps, and present them to UCI leadership for review, and approval, and implementation.</p>	<p>September 30, 2022 or within nine months of receiving the final systemwide guidance from UCOP.</p>
<p>8. Research Data Protections</p>		
<p>8.2 Implement guidelines for compliance with UC Research Data and Tangible Research Materials policy. At a minimum, these guidelines should establish responsibility for tracking compliance with sponsor research data protection requirements.</p>	<p><u>Office of Research</u> Develop and implement campus guidance for complying with the UC Research Data and Tangible Research Materials policy.</p>	<p>September 30, 2022 or within nine months of receiving the final policy from UCOP.</p>

Recommendation	Management Corrective Action	Target Date
9. Oversight of Foreign Gifts and Contracts Reporting		
<p>9.2 Convene a working group or committee to oversee Section 117 reporting that consists of representatives from all reporting departments. The working group should identify a central office with the appropriate knowledge of the U.S. Department of Education requirements to review each Section 117 report prior to submission.</p>	<p><u>Office of Compliance</u> This recommendation is already implemented at UCI. In 2019, UCI’s Office of Compliance established a group consisting of key stakeholders from reporting departments to oversee the Higher Education Act of 1965 (HEA) Section 117 reporting. This group meets at least annually, and more often as necessary, to discuss Section 117 best practices and statutory updates. The Office of Compliance, in collaboration with the Financial Aid Office, reviews each Section 117 report prior to submission.</p>	<p>Not applicable</p>

Recommendation	Management Corrective Action	Target Date
<p>9.3 Establish protocols to ensure individuals responsible for making determinations on selling membership agreements are not receiving the benefit from associated donations.</p>	<p><u>Office of Compliance, Office of Research, and Beall Applied Innovation</u> Conduct a campuswide survey to identify practices related to the development, solicitation, classification (i.e., gift v. sponsored award v. other instrument) and administration of membership agreements; identify any gaps between campus practices and the final version of the Presidential Policy on Classification of Gifts and Sponsored Awards; and submit to campus leadership recommended changes in campus procedures to align them with the policy. This includes establishing protocols to ensure individuals responsible for making determinations on selling membership agreements are not also receiving the benefit from associated fees.</p>	<p>March 30, 2022 or within nine months of receiving the final Presidential Policy on Classification of Gift and Sponsored Awards from UCOP.</p>