

RIVERSIDE: AUDIT & ADVISORY SERVICES

January 3, 2011

To: Charles F. Louis, Vice Chancellor
Office of Research

Katina Napper, Assistant Vice Provost
Academic Personnel Office

Subject: Internal Audit of Conflict of Interest and Conflict of Commitment

Ref: R2011-07

We have completed our audit of Conflict of Interest and Conflict of Commitment in accordance with the UC Riverside Audit Plan. Our report is attached for your review.

We will perform audit follow-up procedures in the future to review the status of management action. This follow-up may take the form of a discussion or perhaps a limited review. Audit R2011-07 will remain open until we have evaluated the actions taken.

We appreciate the cooperation and assistance provided by your staff. Should you have any questions concerning the report, please do not hesitate to contact me.

Michael R. Jenson
Director

cc: Audit Committee Members
Vice Provost Bocian
Director Schmechel
Data Manager Toney

UNIVERSITY OF CALIFORNIA AT RIVERSIDE

AUDIT & ADVISORY SERVICES

MEMBER OF ASSOCIATION OF COLLEGE & UNIVERSITY AUDITORS

INTERNAL AUDIT REPORT R2011-07

CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT

JANUARY 2011

Approved by:

Noahn Montemayor
Principal Auditor

Michael R. Jenson
Director

UC RIVERSIDE
CONFLICT OF INTEREST AND CONFLICT OF COMMITMENT
INTERNAL AUDIT REPORT R2011-07
JANUARY 2011

I. MANAGEMENT SUMMARY

Based upon the results of work performed within the scope of the audit, it is our opinion that, overall, the systems of internal controls over the processes of managing conflict of interest and conflict of commitment are adequate to ensure compliance with University policies and procedures.

As the University initiates new research programs and encourages partnership with private industry, University and campus management, the Regents, and the public have become increasingly concerned about the adequacy of existing procedures and systems for addressing conflict of interest and conflict of commitment.

The Political Reform Act of 1974 (the Act) mandates the adoption of a conflict of interest code by each State agency, including the University, the filing of disclosure statements with the appropriate reviewing body, and the designation of a filing officer to monitor the disclosure statements.

Responsibilities associated with the Act are administered separately for academic and administrative personnel. Academic personnel with principal responsibility for a research project that is to be funded or supported in whole or in part by a contract, grant, or earmarked gift from a nongovernmental entity must file a financial interest disclosure statement. The academic researcher need not be disqualified from accepting the award and conducting the research if the financial interest disclosure statement and research decision are substantively reviewed by an independent committee within the institution prior to the granting of the award.

The University of California encourages faculty to participate in outside professional activities that contribute to their profession and to the broader community. Engagement with the outside community is an important component of the academic enterprise and one way in which faculty and researchers maintain contact with research directions and priorities that exist in the private sector and contribute to the University's public service mission.

Over time, the University has worked with the Academic Senate to develop policy that address and guide the outside professional activities of faculty as well as provide faculty with flexibility and autonomy in engaging in outside professional activities. The primary policy governing conflict of commitment is the UC Policy on Conflict of Commitment and Outside Activities of Faculty Members, Academic Policy Manual Section 025 (APM-025).

Positive observations included:

- * To ensure that all reportable conflicts of interest are disclosed by academic personnel and appropriately evaluated for compliance with University policy and applicable laws and regulations, the Office of Research (OR) requires that financial interest information as well as researcher certifications and assurances be included in all research protocol applications.
- * The Academic Personnel Office (APO) is responsible for ensuring that all reportable academic conflicts of commitment and compensated outside professional activities are disclosed by faculty members and appropriately managed in compliance with University policy and applicable laws and regulations. In collaboration with Computing & Communications, the APO has implemented a web-based system for faculty self reporting that has significantly improved the level of campus compliance with APM-025.
- * Campus executive management regards UC policy on conflict of commitment very seriously and has implemented standard processes for assessing faculty conduct and adjudicating conflict of commitment. The Office of the Executive Vice Chancellor & Provost is responsible for reviewing possible policy violations (in consultation with the Vice Provost – Academic Personnel, the Vice Provost – Administrative Resolution, and the appropriate dean). Management communicates compliance requirements using email and other correspondence.

We observed some areas that need enhancement to strengthen internal controls and/or effect compliance with University policy:

- 1) Management practices should be enhanced to ensure the full compliance of all faculty members required to submit annual reports of conflict of commitment and compensated outside professional activities. (Observation III.A)
- 2) Current policy does not require faculty to provide written identification of entities involved in faculty members' compensated outside professional activities and additional teaching activities. (Observation III.B)

These items are discussed below. Minor items that were not of a magnitude to warrant inclusion in the report were discussed verbally with management. The sample of records reviewed included one APM-025 Annual Report that was submitted 3 days late, another that contained an activity that was not required to be reported, and still another that omitted a prior approved activity that should have been reported.

II. INTRODUCTION

A. PURPOSE

UC Riverside Audit & Advisory Services (A&AS), as part of its Audit Plan, conducted an audit of Conflict of Interest (COI) and Conflict of Commitment (COC) to evaluate the adequacy and clarity of existing policies and procedures designed to identify and manage potential COI and COC of faculty members. A&AS evaluated overall compliance with University policies governing COI and COC, efficiency and effectiveness of processes to manage conflicts, and adequacy of certain internal controls. This audit is a systemwide effort under the direction of the Office of Ethics, Compliance and Audit Services.

B. BACKGROUND

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.

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. At a minimum, a disclosure is typically required for each grant that a researcher submits.

New financial COI rules were proposed in the May 21, 2010 federal register in order to reduce COI in research. The comment period has been extended but they could include requiring:

- The Public Health Service (PHS) funded investigators to disclose to their institutions all Significant Financial Interests (SFIs) related to their institutional responsibilities
- The monetary threshold be lowered at which interests require disclosure, generally from \$10,000 to \$5,000.
- Institutions to provide the PHS Awarding component (e.g. National Institutes of Health, NIH) significant additional information on identified COI and how they are being managed.

- Every PHS-funded institution will be required to post, on a publicly accessible website, information on certain SFIs that the institution has determined are related to PHS-funded research and constitute COI.

The UCR Office of Research Integrity provides broad oversight, resources, and education for integrity and compliance issues – including conflict of interest – relating to the conduct of research at UCR. The Conflict of Interest Committee (COIC) is charged with reviewing all potential conflict of interest disclosures to determine whether there is or is not a conflict of interest. The COIC reviews financial disclosures for both privately and federally sponsored projects and situations where a potential, perceived, or real conflict of interest exists by virtue of financial interest. It establishes management strategies to eliminate, manage or reduce conflicts of interest, determines which strategies are appropriate, and ensures their implementation.

A faculty member's principal professional obligation is to his/her University duties, including scholarly interests in teaching, research, or University-related public service. If that obligation is redirected toward a private commitment or a personal financial interest, there could be a reduction in time and energy devoted to University obligations. While the University encourages outside activities that enhance teaching and research and promote public service, some outside activities (such as taking an executive or managerial position in an outside company) imply greater commitment of time and intellectual energy than do others (such as occasional consulting services).

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*" (Annual Reports). The Department Chair is relied upon to recognize a potential conflict, with advice from other University offices as needed.

There are two new faculty policies that also have Conflict of Commitment clauses. Issued on January 1, 2010 is the Dean's APM 240 which removed Deans from the SMG category. This policy has slightly different rules on Conflict of Commitment but is similar to APM 025. On July 1, 2010 a Faculty Administrators policy APM 246 was issued for other Academic classifications, which also have slightly different COC rules.

The APO is responsible for ensuring that all reportable conflicts of commitment are disclosed by academic personnel and appropriately evaluated for compliance with University policy and applicable laws and regulations.

C. SCOPE

Audit & Advisory Services performed audit procedures that included reviewing policy, interviewing management and other key personnel responsible for developing and implementing the policy, identifying and evaluating local practices for compliance with the policy, evaluating communications and training provided to locations and faculty members, and assessing practices for monitoring reports and disclosures submitted by faculty members using manual and/or electronic systems.

The period of the review is Fiscal Year (FY) 2009-2010. For COI, the audit was limited to reviewing Forms 700U and Federal disclosure forms for contracts or grants active during FY 2009-2010. For COC, the audit included reviewing Prior Approval Requests to Engage in Category I Activities submitted during FY 2009-2010 and Annual Reports of Category I and Category II Activities during FY 2009-2010 submitted by faculty members through November 19, 2010.

We made a judgment call and selected 15 (12%) of 123 commercially sponsored research awards active during FY 2009-2010 and reviewed all Forms 700U submitted by the PIs for selected awards.

Using both judgmental and systematic sampling methods, we selected 25 (5%) of 552 Federally sponsored research awards active during FY 2009-2010 and reviewed all associated disclosure forms.

We reviewed all of nine (9) Forms 700U and Federal disclosure forms with positive disclosures of financial interest filed with the Office of Research during FY 2009-2010. We compared information in the positive disclosure forms to information in the faculty members' Annual Reports of Category I and Category II Activities for consistency.

We reviewed all of fourteen (14) Prior Approval Requests to Engage in Category I Activities submitted by faculty members during FY 2009-2010. We compared information in the Prior Approval Requests to information in the faculty members' Annual Reports of Category I and Category II Activities for consistency.

Using judgmental and systematic sampling methods, we selected 40 (7%) of 593 faculty members who complied with the FY 2009-2010 APM-025 annual reporting requirement and reviewed their individual Annual Reports of Category I and Category II Activities. We used information in the reviewed

Annual Reports to search for related COI information in Office of Research records of faculty members' disclosure of financial interest in sponsored research programs.

We did not perform an exhaustive search for possible undisclosed or inadequately disclosed COI or COC. The scope of audit procedures was limited to those deemed necessary to evaluate overall compliance with University policy and the effectiveness of business practices to manage potential conflicts related to sponsored research and faculty commitments.

D. INTERNAL CONTROLS AND COMPLIANCE

As part of the review, internal controls were examined within the scope of the audit.

Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the achievement of objectives in the following categories:

- * effectiveness and efficiency of operations
- * reliability of financial reporting
- * compliance with applicable laws and regulations

Substantive audit procedures were performed during September through December 2010. Accordingly, this evaluation of internal controls is based on our knowledge as of that time and should be read with that understanding.

III. OBSERVATIONS, COMMENTS, AND RECOMMENDATIONS

A. ANNUAL REPORTS

Management practices should be enhanced to ensure the full compliance of all faculty members required to submit annual reports of conflict of commitment and compensated outside professional activities.

COMMENTS

Based on our review of FY 2009/2010 Annual Reports of Category I and Category II Compensated Outside Professional Activities and Additional Teaching Activities submitted by faculty members, overall, 593 (87%) of 682 faculty members were in compliance with the timely annual report filing requirements of APM-025. As of November 19, 2010, 89 (13%) of 682 faculty members required to submit annual reports have not complied with policy.

The APO sends out email to all faculty members to remind them of the annual reporting requirement and deadline. It seems that email alone has not been an effective means of directing faculty members' attention to and ensuring compliance with University policy and procedures.

Resistance to policy compliance may exist because faculty members perceive they are not affected by the negative consequences of non-compliance since occurrences of non-compliance are not adequately monitored and corrective actions are not required of non-compliant members. Consequences for non-compliance may be needed to effect 100% compliance.

RECOMMENDATIONS

The APO should closely coordinate with academic deans and department chairs to actively monitor the annual report submission process. The online faculty self-reporting system has been helpful in increasing the level of compliance; however, close monitoring and follow-up procedures may be necessary to achieve full compliance.

Management should also consider developing and implementing a system to mete out consequences for non-compliance and exact corrective action.

MANAGEMENT RESPONSE

Enhancements to the conflict of commitment system will allow Deans and Department Chairs to have real time access to reports regarding the filing status of their faculty. APO will follow up with the Dean's offices for up to a month after the filing deadline as needed.

B. IDENTIFICATION OF ENTITIES INVOLVED IN FACULTY MEMBERS' OUTSIDE PROFESSIONAL ACTIVITIES

Current policy does not require faculty to provide written identification of entities involved in faculty members' compensated outside professional activities and additional teaching activities.

COMMENTS

APM-025 requires that the annual report consist of a general description of the business, agency, organization, group, or individuals for which service was performed, a description of the type of service performed during the period of the academic appointment, a description of the role the faculty member assumed for an outside business, agency, organization, group, or individuals, and the number of days spent in each activity during the academic or fiscal year. However, the written identification of the entity involved is not mandatory.

This information would be helpful in determining whether an entity affiliated with a faculty member is also a sponsor of a campus research program.

RECOMMENDATIONS

Although current policy does not require faculty members to identify in the annual reports the entities or persons to whom services were provided, the Chancellor or his or her designee(s) may request, and faculty shall be obligated to provide, verbal identification.

Management should consider requesting faculty members to provide the identities of organizations or individuals involved in faculty members' outside professional activities and additional teaching activities, in addition to other information required in the APM-025 Annual Reports.

MANAGEMENT RESPONSE

This information at this point can be requested on a case by case basis to inform the process of determining the conflict of commitment as needed. We would like to avoid collecting unnecessary information as well as information that is not required.