AUDIT AND ADVISORY SERVICES   611 UNIVERSITY HALL #1170
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August 3, 2021

Catherine P. Koshland
Interim Executive Vice Chancellor and Provost

Randy Katz
Vice Chancellor
Research

Re: Campus Management Action Plans to Address Systemwide Audit of Foreign Influence

Interim Executive Vice Chancellor and Provost Koshland and Vice Chancellor Katz:

Campus internal audit has completed an audit of foreign influence under the direction of the University of California Office of Ethics, Compliance and Audit Services (ECAS) at the UC Office of the President as part of the fiscal year 2020 audit plan (ECAS project P20A004/Berkeley campus project 20-743). Our audit work was conducted in accordance with the Institute of Internal Auditors' *Standards for the Professional Practice of Internal Auditing* and the University of California Internal Audit Charter.

A systemwide audit report was issued by ECAS on April 8, 2021 that contained observations applicable to all UC campuses, including Berkeley. This letter serves to summarize the work performed and delineate the management action plans developed by campus stakeholders to address the recommendations in the systemwide report. All observations noted through our local audit work are encompassed in the systemwide report and there are no additional location-specific recommendations.

AUDIT PURPOSE, SCOPE, AND APPROACH

The purpose of this project was to evaluate the system of internal controls in place to manage risks identified by the federal government related to foreign influence.

Audit procedures were based on a common systemwide audit program developed by ECAS and entailed interviews with management and a review of documentation to gain an understanding of processes and controls 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

In addition, a sample test was performed on selected National Institutes of Health grants to evaluate and assess the accuracy of reporting foreign affiliations through a comparison of information in grant documents, sabbatical records, and publications.

AUDIT OUTCOMES

Recommendations from the ECAS audit report that pertain to the campus, along with campus management responses and corrective actions that have been discussed and accepted at the local level and by ECAS, are outlined in Attachment A. The Office of the Vice Chancellor for Research will be coordinating the implementation of campus corrective actions under the management plan, working with stakeholders from other divisions as required. Separately, issues of potential concern stemming from these procedures have been referred to the campus Locally Designated Official. Please destroy all copies of draft reports and related documents.

Thank you to the staff of the Executive Vice Chancellor and Provost, Vice Chancellor for Research, Vice Provost for Faculty, the Division of Academic Planning, University Development and Alumni Relations, the Financial Aid and Scholarships Office, and Berkeley Regional Services for their cooperative efforts throughout the audit. 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,

Jaime Jue
Director

Enclosures: Attachment A – Campus Management Corrective Actions

cc: Vice Chancellor Steven Sutton
        Vice Chancellor Julie Hooper
        Vice Provost Benjamin Hermalin
        Vice Provost Lisa Alvarez-Cohen
        Assistant Vice Chancellor Kairi Williams
        Assistant Vice Provost Heather Archer
        Executive Director Kellie Brennan
        Senior Vice President and Chief Compliance and Audit Officer Alexander Bustamante
        Associate Chancellor Khira Griscavage
        Associate Vice Chancellor and Controller Michael Riley

ATTACHMENT A – BERKELEY CAMPUS MANAGEMENT CORRECTIVE ACTIONS

CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date**[1]
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.	UCB stakeholder offices will collaborate to implement baseline protocols from the UC Office of the President (UCOP) to reduce the risk of inaccurate or incomplete information related to foreign research support, foreign talent programs, and affiliations of key personnel in contract and grant proposals. It is understood the campus has flexibility to modify recommendations based on UCB's infrastructure, processes and resources. Currently, conflict of interests/conflict of commitments/outside interests are collected in various forms from various UCB offices. In order to conduct a reasonable reconciliation of Faculty outside interest, stakeholder offices must collaborate on access to information.	12/31/21
2. Conflict of Interest		
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.	The UCB Conflict of Interest Committee will work with the Chief Ethics, Risk and Compliance Officer (CERCO) and the Academic Personnel Office (APO) to add representatives to the current committee roster to support transparency.	9/30/21

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[1] Where campus management corrective actions are dependent on the prior completion of related UCOP-managed actions, campus target dates have been set with consideration of the target completion dates for the UCOP actions, as specified in the systemwide audit report. In the event the UCOP action completion dates are extended, target dates for related campus actions may be commensurately extended.

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CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date[1]**
3. Conflict of Commitment		
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.	UCB Vice Provost for the Faculty (VPF) and the APO will work with decanal leadership and the VC Research to conduct an evaluation of systemwide protocols and measures. Subsequently, UCB will update and implement baseline protocols to help ensure complete and timely submission and review of outside activity disclosures, including recommended consequences for late or missed outside activity disclosures. VPF, APO, VC Research/Research Administration and Compliance (RAC), Berkeley Regional Services (BRS) and others will coordinate to roll out training to deans, faculty and staff on updated expectations, policies and procedures.	12/31/21
3.7 Evaluate the best practice solutions for institutional office compliance monitoring recommended by the OATS Governance Board and modify them as necessary to implement them locally.	The UCB APO will evaluate and modify as necessary best practices recommended by the UCOP Outside Activity Tracking System (OATS) Governance Board for the performance of compliance monitoring in OATS locally. It is understood the campus has flexibility to modify recommendations based on Berkeley's infrastructure, processes and resources.	6/30/22

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CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date[1]**
4. Training and Awareness		
4.6 Implement the system-developed "Ethics and Compliance Briefing for Researchers" training module and require, at a minimum, all researchers receiving research funding to complete the training biennially. Consider expanding the training audience to graduate students, visiting scholars, and grant key personnel.	UC Berkeley has been scaling up delivery of its Responsible Conduct in Research training, and developed new training for Visiting Researchers and Postdocs in 2019. UCB VC Research and RAC will coordinate with Academic Personnel, deans and chairs, and stakeholder offices (People & Culture, Visiting Scholar and Postdoc Affairs, the Industry Alliances Office, BRS, etc.) to ensure campus-wide implementation of the "Ethics and Compliance Briefing for Researchers" training module and require, at a minimum, all researchers receiving research funding to complete the training biennially. Consideration will also be given towards expanding the training to graduate students, visiting scholars and grant key personnel.	4/30/22
4.7 Address consequences for non-compliance with the completion requirement for the mandatory systemwide training.	UC Berkeley will update its training rollout and enforcement by developing consequences for non-compliance with required trainings based on completion data provided by UCOP.	8/31/22
4.8 Implement a local foreign influence risk communication plan, taking into consideration the systemwide guidance.	The UCB VC Research Office and the Office of Research Administration and Compliance will coordinate with the Global Engagement Office (GEO), the campus committee International Activities Coordination Group (IACG), and other stakeholders to develop and ensure implementation of an ongoing foreign influence communication plan consistent with systemwide guidance. This plan will build on recommendations in, and the work of, the UCB International Engagement Policy Task Force (2019-20).	9/30/22

CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date[1]**
5. Restricted Party Screening		
5.3 Create and implement export control procedures as outlined in the UC export control policy. At a minimum, these procedures should include: • 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.	RAC will update and implement export control procedures for restricted party screening consistent with UC export control policy, and coordinate with relevant offices (VSPA, IAO, University Development and Alumni Relations [UDAR], the Sponsored Projects Office [SPO], BRS, GEO, Berkeley International Office [BIO], and others) to develop and implement necessary training. This work will build on procedures and recommendations developed by the International Engagement Policy Task Force and campus Export Control Officer (ECO) in 2019-20. At a minimum, these procedures will include: • defined roles and responsibilities for restricted party screening as outlined in the export control policy; • escalation procedures for positive screenings; and • periodic ECO monitoring to ensure that the responsible parties are performing these procedures.	12/31/21
5.4 Implement the system-developed training module to educate faculty and staff on the importance and requirements of restricted party screening.	RAC will lead implementation of the system-developed training module to educate faculty and staff on the importance and requirements of restricted party screening. Additionally, RAC will create a dedicated webpage on restricted party screening.	6/30/22

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Recommendation	**Management Corrective Action**	**Target Date[1]**
6. Export Control Red Flags		
6.2 Implement written procedures to address red flags in accordance with systemwide guidance, including escalation procedures that are specific to the location.	RAC will lead efforts to integrate new systemwide training identifying and addressing red flags in research with UCB's existing training and recommendations from the International Engagement Policy Task Force. This effort will include updating and implementation of written procedures to address red flags in accordance with systemwide guidance, including escalation procedures specific to UCB.	6/30/22
6.3 Develop localized training on the red flags procedures leveraging the systemwide training content and implement the training for appropriate personnel.	RAC will work with the Office of Ethics, Risk and Compliance Services and other stakeholders to develop campus-specific training on identifying and addressing red flags in research and implement training for key stakeholder units such as SPO, IAO, Business Contracts & Brand Protection, UDAR, BRS, GEO and departmental staff.	12/31/21
7. Vetting of International Scholars		
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.	The UCB VSPA Office, BIO and ECO developed new guidelines and tools for vetting and enhancing the consistent processing, onboarding and hosting of visiting scholars/researchers, postdocs and international students as part of the International Engagement Policy Task Force in 2019-20. The VC Research and RAC will work with these offices and campus departmental leadership to finalize and implement the guidelines, incorporating additional UCOP systemwide guidance.	6/30/22

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CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date[1]**
8. Research Data Protections		
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.	The VC Research Office in collaboration with the Chief Information Security Officer and Research IT will work with campus stakeholders to implement guidelines for compliance with the UC Research Data and Tangible Research Materials Policy. We understand that at a minimum guidelines developed should establish clear responsibility for tracking compliance with sponsor research data protection requirements.	12/31/22
9. Oversight of Foreign Gifts and Contracts Reporting		
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.	UCB has a robust, but informal, process for reporting international gifts to the Department of Education (DOE). The process is led by the Financial Aid and Scholarships Office, which collects and coordinates data from each of the stakeholder offices including but not limited to t SPO, IAO, UDAR and UC Extension. Each office has identified a party responsible for reporting all necessary data. Financial Aid leads the process by collecting the data reports from each office, reviewing the submissions for all necessary data elements and to ensure they are receiving data from all relevant offices, consolidating and submitting the section 117 reporting to the DOE. All stakeholder offices are notified when the report is submitted to the DOE. In order to fully meet UCOP's recommendation, UCB will formally document its process including roles and responsibilities.	12/31/21

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CAMPUS:		
Recommendation	**Management Corrective Action**	**Target Date**[1]
9.3 Establish protocols to ensure individuals responsible for making determinations on selling membership agreements are not also receiving the benefit from associated fees.	UCB has established processes, templates and identified offices (IAO, UDAR, BCBP, SPO) responsible for review and oversight of membership agreements. These offices will review current processes in light of systemwide guidance and update/increase documentation and training as needed. The UCB stakeholder offices will ensure that individuals responsible for making determinations on selling membership agreements are not receiving the benefit from associated donations.	12/31/21