

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
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January 14, 2011

**PROVOST AND EXECUTIVE VICE PRESIDENT PITTS
VICE PRESIDENT BECKWITH**

**Subject: Final Report--Audit Project No. 11A004: UCOP Conflict of Interest/Conflict of
Commitment Audit**

Attached please find the final report for Audit No. 11A004: UCOP Conflict of Interest/Conflict of Commitment Audit. With the issuance of this final report, please destroy any previous draft versions.

We very much appreciate the assistance provided to us by your staff during our review. If you should have any questions, please feel free to contact me at 510-987-0482 (e-mail: Susana.Atwood@ucop.edu), or Benjamin Wong at 510-287-3318 (e-mail: Benjmain.Wong@ucop.edu).

Benjamin Wong
for Susana Atwood
Susana Atwood
Auditor Director

Attachment

cc: SVP Vacca
Vice Provost Carlson
Interim Executive Director Price
Director Hall
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Manager Demattos
Manager Hicks
Principal Auditor Wong

UNIVERSITY OF CALIFORNIA
OFFICE OF ETHICS, COMPLIANCE AND AUDIT SERVICES
OFFICE OF THE PRESIDENT
INTERNAL AUDIT SERVICES

CONFLICT OF INTEREST/CONFLICT OF COMMITMENT
OFFICE OF THE PRESIDENT
Internal Audit No. 11A004
January 2011

Audit Conducted by:
Benjamin Wong, Principal Auditor

Introduction

Conflict of Interest (COI)

As part of the annual audit plan approved by the President's Compliance and Audit Committee and the Regents of the University, we reviewed compliance with University Policies on Conflict of Interest (COI) and Conflict of Commitment (COC). We focused on Outside Professional Activities Policy, APM 025 requirements, as well as Federal and University policies on disclosing research conflict of interests. This audit was included in the audit plans of all campuses to allow the UC Internal Audit Program to summarize the results and consolidate observations into a separate systemwide report.

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.

At UCOP for fiscal year 2009-2010, there was one active federal award and one active commercial award, three individuals, two SMGs and one contractor, with faculty appointments. Given the insignificant exposures to COI and COC filings, we focused on the role of UCOP Academic Personnel and Research Policy Analysis and Coordination in coordinating the implementation and revision of policies. The following information is significant to that systemwide role:

Research COI Requirements

The State of California and the Federal Government have established different requirements for disclosure and review, as well as 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, an additional evaluation is completed. At a minimum, a disclosure is typically required for each grant that a researcher submits.

Expected Changes in Policy Impacting Disclosures of Research Conflicts

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 PHS-funded investigators to disclose to their institutions of all Significant Financial Interests (SFIs) which includes remuneration or holding of any equity interest.
- The monetary threshold being lowered, generally from \$10,000 to \$5,000.
- Institutions being required to provide the PHS Awarding component (e.g. NIH) any significant additional information on identified COI and how those conflicts are being managed.
- That PHS-funded institutions 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.

Conflict of Commitment (COC)

Requirements for faculty Conflict of Commitment disclosures are provided in APM 025: *Conflict of Commitment and Outside Activities of Faculty Members*. 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 II¹ 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.

¹ Category I activities include assuming an executive or managerial position in a for-profit or not-for-profit business. Category II activities include compensated consulting services.

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.

Objectives and Scope

The primary focus of the UCOP review was to assess support provided by UCOP Academic Personnel and Research Policy Analysis and Coordination on COI/COC policies. We also assessed the adequacy of internal controls on COI management processes and overall compliance with University policy. We reviewed 700U and federal disclosure forms for Federal and Commercial research contracts or grants active during fiscal year 2009-2010.

General overview procedures included such actions as: reviewing policy; interviewing management and other key personnel responsible for developing and implementing the policy; identifying and evaluating local and systemwide 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 including manual and electronic systems/processes.

Overall Conclusion

We determined there were two active research awards within our scope: one federal and one commercial. A form 700U was filed with the commercial research award with no positive disclosure, and no financial disclosure was required to be filed with the Federal research award given the funding source was not National Science Foundation or National Institutes of Health.

UCOP faculty hold their designations at campuses not UCOP. Therefore, these faculty members are required to comply with procedures at their corresponding campuses for COC policies. Therefore, we did not perform any review on COC disclosures.

Research Policy Analysis and Academic Personnel have established processes on COI and COC policy updates to include subject experts and related parties thus ensuring adequate systemwide communication prior to revised policy finalization and implementation. Additionally, Research Policy Analysis conducts periodic meetings with the campuses to discuss COI issues and questions. Academic Personnel has an internal system (Personnel Forum) where authorized personnel at UCOP and campuses are allowed to post and respond to Academic Personnel Policy related issues. There are revisions on COI and COC policies underway to streamline and clarify current requirements.