

**DEPARTMENT OF BIOLOGY
AUDIT OF ALLEGATIONS OF MISREPORTING PAYROLL
HOURS**

THE UNIVERSITY OF NEW MEXICO

**Report 2006-05
July 5, 2006**



The University of New Mexico

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ABBREVIATIONS

Biology.....	Department of Biology
CFR	Code of Federal Regulations
Coordinator.....	A temporary employee working as a coordinator for a grant
FLSA.....	Fair Labor Standards Act
HR.....	Department of Human Resources
NMSA.....	New Mexico Statutes Annotated
OVPRED.....	Office of the Vice President for Research and Economic Development
Payroll.....	University Payroll Department
PI.....	Principal Investigator
Supervisor.....	Administrative employee in Biology responsible for completing the University payroll time reports
UBP	University Business Policies and Procedures Manual
UBPPM	University Business Policies and Procedures Manual
University.....	The University of New Mexico
UNM	The University of New Mexico

EXECUTIVE SUMMARY

A temporary employee working as a coordinator for a grant (Coordinator) in The University of New Mexico (University) Department of Biology (Biology) submitted a time sheet that included hours that had not been worked. The hours were inflated on this time sheet to pay the Coordinator for time the principal investigator (PI) asked her to work past her University employment end date. This time sheet was signed by her supervisor, a PI in Biology, who is responsible for managing all aspects, including the financial aspects, of her contracts and grants.

Even though the administrative staff in Biology suspected that the hours reported were incorrect, they processed the timesheet, which resulted in an overpayment of \$1,775.25. The Coordinator later worked the majority of the hours she had been paid for. The Department of Human Resources (HR) calculated the pay the Coordinator should have received for the work performed after her employment end date. The University Payroll Department (Payroll) calculated that the Coordinator owes the University \$291.76 which is the difference between what she was prepaid and the amount she should have been paid for the hours worked after her employment end date. The University set up a receivable for that amount.

According to University Counsel, this is a potential criminal statute violation because of the falsification of documents. Internal Audit forwarded the information to the University Police Department and the New Mexico Office of the State Auditor.

In conclusion, the controls over the payroll processes in Biology, although not formally documented, appear to be adequate. The Biology staff identified a problem with the time sheet; however, the Department Administrator did not follow the process because she did not inform the Chair of Biology. The following summary provides management with an overview of conditions requiring attention.

ACCURATE REPORTING OF PAYROLL

The Interim Dean of the College of Arts and Science should consider whether disciplinary action is appropriate for the PI involved in processing the false document and for the Department Administrator who did not inform the Chair of Biology of the suspected incorrect document. The Interim Dean of the College of Arts and Science will recommend a letter of reprimand be placed in the PI's file and present a written warning to the Department Administrator.

The Vice President for Research and Economic Development should include hiring and timekeeping issues in the Grants Management Training. The Vice President for Research and Economic Development will explore the possibility of developing a separate training module on hiring, timekeeping and other aspects of the Fair Labor Standards Act (FLSA).

The Vice President of Human Resources should remind the campus community that hourly employees must be paid for all hours worked and ensure that the University has properly paid the Coordinator for all hours worked. The Vice President of Human Resources stated that a notice will be sent campus wide regarding properly paying hourly employees under FLSA and that an HR Consultant will work with Biology to ensure the Coordinator has been properly paid.

IMPROVEMENTS TO THE PAYROLL PROCESS

Biology should improve their processes by: having written payroll procedures, using time sheets showing daily times in and out, and changing when the internal time sheets are due. The Chair of the Department of Biology concurred with the findings and will develop written procedures, revise the internal timesheets and change the internal time sheet due dates.

INTRODUCTION

BACKGROUND

Biology, a department in the College of Arts and Sciences, employs about fifty permanent staff and one hundred and ten student employees who are paid based on hours reported on time sheets. Biology's website states, "Our basic philosophy has been to promote interactions among a broad spectrum of biologists within the context of a single integrated and interactive department."

HR contacted Internal Audit regarding a Coordinator who claimed 100 hours of overtime on her bi-weekly time sheet. This Coordinator told HR that the overtime was a prepayment of work she would do for Biology after the official University records indicated that she was no longer a University employee. HR stated that this information came to light when the Coordinator spoke with HR because of issues she had with her employment within Biology.

PURPOSE

The purpose of our audit was to determine whether time was reported correctly and to review the controls over payroll in Biology to determine whether they are adequate to ensure proper reporting of payroll hours.

SCOPE

Our audit was limited to a review of the payroll processes in Biology and payroll payments to the Coordinator.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

ACCURATE REPORTING OF PAYROLL

HR informed the PI in Biology that the Coordinator was not allowed to work on the PI's grant past June 8, 2005, because of the required termination of her status as a temporary employee. The PI wanted the Coordinator to work past this end date. The PI paid the Coordinator for this work by prepaying her for the time on her last paycheck.

The Coordinator spoke with HR regarding being prepaid for time she worked when she was not officially a University employee. HR provided this information to Internal Audit. The prepayment was \$1,775.25. At the request of HR, the Coordinator turned in corrected time sheets showing that she worked enough hours when she wasn't officially a University employee so that, after taxes, she was overpaid by only \$291.76.

PI's Responsibility for Payroll Overpayment

New Mexico Statutes Annotated (NMSA) 1978 §30-23-2 states,

Paying or receiving public money for services not rendered consists of knowingly making or receiving payment or causing payment to be made from public funds where such payment purports to be for wages, salary or remuneration for personal services [services] which have not in fact been rendered... Whoever commits paying or receiving public money for services not rendered is guilty of a fourth degree felony.

Further, NMSA 1978 §30-23-3 states,

Making or permitting false public voucher consists of knowingly, intentionally or willfully making, causing to be made or permitting to be made, a false material statement or forged signature upon any public voucher, or invoice supporting a public voucher, with intent that the voucher or invoice shall be relied upon for the expenditure of public money.

Whoever commits making or permitting false public voucher is guilty of a fourth degree felony.

The PI signed the time sheet, which resulted in the Coordinator being paid for hours not worked. The purpose of the payment was to assure that the Coordinator would continue to be paid for working when she was no longer officially a University employee. The following is an outline of the PI's involvement.

For the pay period May 28, 2005, through June 10, 2005, the PI signed two internal time sheets. The first time sheet showed 168 hours worked in a two-week period: 80 hours at straight time and 88 hours of overtime. The Coordinator submitted this time sheet to the Supervisor in Biology who is responsible for preparing and submitting the University Time Report to Payroll.

The Supervisor rejected the time sheet because some of the hours were reported after the employee's employment end date of June 8, 2005. After the Supervisor returned the time sheet to the Coordinator, the Coordinator returned with a second time sheet which reported 180 hours worked for the same two-week time period with all of the hours reported prior to the Coordinator's employment end date. The time sheet reported 80 hours of straight time and 100 hours of overtime. Per the Coordinator, she worked 100 hours altogether in that time period. Therefore, she over reported her time by 80 hours of overtime. This resulted in a \$1,775.25 overpayment to the employee.

This internal time sheet has a place for two signatures: the supervisor and the employee. Just above the space where the PI signed is the following certification, "I certify that this staff member has performed his/her work in a satisfactory manner for the number of hours indicated." Above the signature line where the Coordinator signed is the following certification, "I certify that I worked these hours."

The PI told us that she signed blank time sheets and did not know how many hours the Coordinator reported. The PI believed that she was out of town on the date the time sheets would normally be signed. The Coordinator told us the time sheets were completed before the PI signed them. Through reviewing the PI's University travel, we confirmed that she was in town on the date the time sheets should have been signed.

The Supervisor, who is administrative employee in Biology responsible for completing the University payroll time reports, completed the Payroll time report based on the second time sheet prepared by the Coordinator. The Supervisor submitted it to Payroll for processing. Payroll questioned the excessive overtime hours on the time report. When the Supervisor told the Coordinator that Payroll was questioning the hours, the Coordinator sent an e-mail to the PI asking how she should respond. In an e-mail dated June 14, 2005, the PI wrote, "...Can you call them and say that you messed up reporting overtime and then realized that you had only two weeks of work left, so you put on overtime from the last month or 5 weeks." This e-mail makes it clear that the PI knew that paying for hours not yet worked was not appropriate.

When we spoke with the PI, she stated that they had to prepay the Coordinator because HR was unable to respond to her employment needs. We reviewed the paperwork for the Coordinator and noted the following.

- The Coordinator was a student employee until February 3, 2005. Her status changed because she was no longer taking classes. The Supervisor e-mailed the PI the following, "She [the Coordinator] is being paid on student employment. Technically, she [the Coordinator] should not be getting this paycheck, because she is not a student and has not been a student since December. She is just fortunate that student employment is unaware of this."

- For the period February 7, 2005 through May 7, 2005, the Coordinator was paid as a temporary employee. She was hired under the provision in Section 6.6, "Recruitment and Hiring," 3210 University Business Policies and Procedures Manual (UBP). This provision states, "A hiring officer may fill a new or vacant position for less than three (3) months per calendar year under these alternative appointment procedures. This type of alternative appointment is typically used for full-time, part-time, or intermittent services." Per the Coordinator, the PI told her this was to be a temporary position until the PI could hire her permanently in the job. However, the PI stated that she did not promise the Coordinator the job.
- HR allowed an exception to the aforementioned policy and extended the Coordinator's employment end date from May 7, 2005 to June 8, 2005. The extension was to give Biology more time to hire the permanent employee.
- University e-mails show Biology was working with HR to hire the Coordinator into a second position. However, this second position could not be posted and filled by the Coordinator because there were others on lay-off status who would qualify for this position. It appears that the second position was not posted because HR could not guarantee that the Coordinator would get the position. This appears to be an attempt to circumvent the HR process.

The PI did not complete the hiring process for the permanent coordinator during the four months when HR approved her having a temporary employee.

When the PI chose a person for the permanent position, she did not choose the Coordinator. Instead, she hired an accountant who worked for Biology Administration. The PI stated that the accountant could not begin working for the PI until after year-end because Biology needed her help to close the fiscal year end. The PI stated this left her without a coordinator.

The PI and the Coordinator are involved in this potential criminal statute violation because the PI chose to prepay the Coordinator and both signed the inaccurate time sheet.

University Regents Policy section 7.2 states, "If the investigation reveals possible fraudulent activity has occurred, Internal Audit will ask University Counsel to render an opinion as to whether the audit findings indicate that illegal activity may have occurred." In November 2005, Internal Audit asked University Counsel for an opinion as to whether the payment is a potential criminal statute violation and University Counsel stated that it was. Internal Audit notified both the University Police and the New Mexico Office of the State Auditor. Internal Audit is not aware of any disciplinary action taken with regard to the PI who is a faculty member. The University attempted to collect the \$291.76 from the Coordinator who has since filed bankruptcy.

Recommendation 1

We recommend that the Interim Dean of the College of Arts and Science work with the Provost to determine the appropriate disciplinary action as a result of the PI's role in the Coordinator being paid for hours she did not work.

Response from the Interim Dean of the College of Arts and Sciences

- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

The Interim Dean will recommend that an appropriate disciplinary action is a formal letter of reprimand in the faculty member's file in response to these findings.

Recommendation 2

We recommend that the Interim Dean of the College of Arts and Sciences communicate with the entire Arts and Sciences faculty that they should not sign documents that they know are not accurate. This would include not signing an incomplete or blank document. When they sign these documents, they are accepting responsibility for the information recorded on the document.

Response from the Interim Dean of the College of Arts and Sciences

- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

The Interim Dean will send a letter to all A&S faculty so stating.

Staff's Responsibility for Payroll Overpayment

Section 5. "Performance Management" Policy 3215, UBP states that a staff employee can be disciplined for proper cause.

For the pay period May 28, 2005 through June 10, 2005, Biology submitted a Staff Payroll Time Report to Payroll which reported 180 hours worked by the Coordinator for a two-week time period: 80 hours of straight time and 100 hours of overtime. The time report was signed by the Supervisor. This Supervisor is responsible for completing these time reports based on internal time sheets provided by the employees and their supervisors. This time report was supported by an internal time sheet signed by the Coordinator and the PI.

The Supervisor told us that she suspected the internal time sheet was incorrect. She stated that she asked her supervisor, who was the Accountant in Biology, what to do. According to a memo from the former Accountant, the Supervisor and the Accountant met with the Department Administrator regarding the time sheet. The Department Administrator decided that they should process the time report as the PI was responsible for approving the hours reported. The Department Administrator told us that she did not report the suspected time sheet error to the Chair of Biology.

Because they processed the time report which they suspected contained inaccurate information, the Coordinator was overpaid.

Recommendation 3

We recommend the Interim Dean of the College of Arts and Science Arts and Sciences work with their Senior HR Consultant in HR to determine the appropriate administrative actions, if any, with regard to the Department Administrator who did not inform the Chair of Biology of the suspected payroll overpayment.

Response from the Interim Dean of the College of Arts and Sciences

- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

The Interim Dean has met with the department chair who has agreed to present the employee with a written warning as described in UNM Business Policy 3215. This warning will be developed in consultation with the College's Senior HR Consultant.

Payroll Process Training for Faculty

The *Guide for Principal Investigators*, published by the Office of the Vice President for Research and Economic Development provides guidance to the PIs on their responsibilities regarding contracts and grants. This guide states, “The principal investigator is responsible for adhering to the University of New Mexico policies and procedures for completing the technical requirements and handling the day-to-day administration of the project as proposed to the funding agency.”

During our interview with the PI, she stated that she relied on the advice of Biology staff and that they gave her bad advice. The Biology staff stated that they did not advise the PI to falsify time sheets. The PI has the ultimate responsibility for her grants. One of the ways to help the PIs meet their responsibilities is to train them on the hiring process including what is allowed and what is prohibited by policy, and State and Federal laws.

When we spoke with the Biology staff regarding this concept, they stated that it would be helpful for the PIs to be trained so that the PIs understand the staff’s responsibilities for enforcing policies and procedures, and laws.

Recommendation 4

We recommend that the Vice President for Research and Economic Development include in the *Grants Management Training* information on FLSA, and the hiring policies and procedures at the University. This would further inform the PIs of their responsibilities with regard to employment issues.

Response from the Vice President for Research and Economic Development

The required Grants Management Program: General Workshop already contains information on timekeeping and the penalties associated with not following relevant policies and procedures. There is less information on hiring because this is complex issue and the required PI training is envisioned as an introduction to grants management. In light of the recommendation contained in this audit report, the OVPRED staff responsible for this training will add emphasis to those parts of the training that deal with hiring and timekeeping. They will also explore the possibility of developing a separate training module on hiring, timekeeping and other aspects of the Fair Labor Standards Act that are relevant to grants management and that can be used for the recertification required of all PIs every three years.

Paying Employees for Hours Worked

According to Section 7.1. "Paid Time" Policy 3300, UBP, paid time includes, "Actual time worked at an employee's job location(s) as required by the job assignment." FLSA also requires that the employees be paid for all hours worked.

During the interview with the Coordinator, she told us that she had worked hours for which she was not compensated because she was trying to complete her job. The PI also indicated that the employee might have worked additional hours that were not compensated. This is in violation of UBP and FLSA.

Recommendation 5

We recommend that the Vice President of Human Resources send out a notification to the campus reminding them that hourly employees must be paid for all of the hours that they work.

Response from the Vice President of Human Resources

I concur. It is critical that University of New Mexico (UNM) staff employees who are designated as non-exempt (hourly) are paid in accordance with the Fair Labor Standards Act (FLSA), University Business Policies and Procedures Manual (UBPPM) Paid Time #3300, UBPPM Overtime #3305, and UBPPM Compensatory Time #3310. I will issue a notification to the UNM Campus no later than July 17, 2006, reminding UNM faculty, staff, and students, that hourly staff employees who are non-exempt under FLSA must be paid for all of the hours that they work in accordance with federal law and UNM policies. In addition, I will remind the campus to work pro-actively with HR to identify appropriate employment options and timelines.

Recommendation 6

We recommend that HR interview the Coordinator to assure that the University has properly paid her for all of the hours that she worked.

Response from the Vice President of Human Resources

I concur. I will ask the HR Consultant for the Department of Biology to work with the Department and the Coordinator to assure that UNM has properly paid her for all of the hours she worked for the Department of Biology as a temporary staff employee. In September 2005, the HR Consultant requested the Coordinator and the Department revise timesheets for the 2R23, 2R24, and 2R25 2005 payroll periods to accurately reflect the time worked by the Coordinator. The HR Consultant will follow-up to ensure that UNM has properly paid her for all of the hours she worked for the Department as a temporary staff employee.

IMPROVEMENTS TO THE PAYROLL PROCESS

New Time Sheets

The Fair Labor Standards Act (FLSA), 29 Code of Federal Regulations (CFR) 516.2 states that,

...the following items should be maintained with regard to time keeping records.

(a) Items required...

(5) Time of day and day of week on which the employee's workweek begins,...

(7) Hours worked each workday and total hours worked each workweek (for purposes of this section, a 'workday' is any fixed period of 24 consecutive hours and a "workweek" is any fixed and regularly recurring period of 7 consecutive workdays,...

(c) Employees working on fixed schedules. With respect to employees working on fixed schedules, an employer may maintain records showing instead of the hours worked each day and each workweek as required by paragraph (a) (7) of this section, the schedule of daily and weekly hours the employee normally works.

In the case of fixed schedules, the above law allows an employee to keep records of the fixed schedule. However, per the Supervisor, the lab techs and others in Biology do not all have fixed schedules. Instead, they work varied schedules. Because of this, a time sheet showing times in and out should be kept to document the actual hours the employees work.

Recommendation 7

We recommend that Biology use a time sheet showing the times in and out that each employee works.

Response from the Chair of the Department of Biology

- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

Copies of the most recent revision of the Biology Department bi-weekly time sheets are attached. [Internal Audit reviewed the time sheet and it is adequate. The time sheet is not attached to this report.]

Estimating Hours

Time reporting needs to be as accurate as possible. Biology has fifty permanent employees and about one hundred and ten student employees who are paid based on hours reported on time sheets. The Payroll's time reports are due every two weeks. The time reports for staff are due at Payroll on the Monday after the pay period ends at 12:00 noon and the student time reports are due at 5:00 PM at Student Employment on Friday when the pay period ends. Biology asks the supervisors to turn in the internal time sheets by Wednesday so that the Supervisor who prepares the Payroll time reports can review the internal time sheets and complete the time reports.

This method results in the supervisors estimating the staff work hours for two days. This can lead to errors in recording. It is also additional work for the supervisors to make the necessary corrections if the employees' actual work times vary from their estimates.

The Supervisor responsible for the time reports stated that the supervisors already have a difficult time getting the internal time sheets to her on time. In addition, having different deadlines for student and staff timesheets creates difficulty because the supervisors get confused between the student employees and the permanent employees.

Recommendation 8

We recommend that Biology change when the staff's internal time sheets are due to Biology administration so that there will be less estimating of hours each employee will work. This will include additional training for supervisors so that they submit the internal time sheets on time.

Response from the Chair of the Department of Biology

- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

Per your suggestion in the final draft audit report, we have included a new deadline for departmental time sheets in our draft written payroll policies. That deadline will be 5:00 pm on Thursday.

Written Payroll Procedures

Although Biology has a standard process to handle payroll, annual leave, and sick leave reporting, these procedures are not documented. Well-documented policies and procedures provide employees with guidance on performance of their duties, and provide structure and organization to processes. Inconsistent application of policies and procedures generally occurs when there is inadequate documentation. Documented policies and procedures assist in training and discipline as they set precedent and serve as the authority for how to conduct business. According to the Department Administrator, the payroll procedures have not been documented because other needs have taken precedence.

Recommendation 9

We recommend the Chair of Biology assure that the payroll procedures for Biology are written and distributed to employees.

Response from the Chair of the Department of Biology

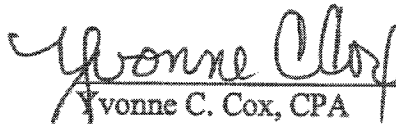
- *Management concurs with the audit finding.*
- *Corrective action will be taken as detailed in the following audit response.*
- *Corrective action will be taken on or before August 1, 2006 or when proposed corrective action is accepted.*

We have updated our written HR/Payroll Policies which we first drafted in October 2005. Upon approval of the attached revision, we will post these policies on our department webpage. In addition, I will send out an announcement of the new policies with an attached copy on the department's general and faculty listservs. We will also attach a copy of the policies to the first financial report sent to faculty and other administrative staff at the beginning of the fall semester.

CONCLUSION

Because time sheets were falsified to prepay the Coordinator, the PI and the Coordinator are involved in a potential criminal statute violation. The controls over the payroll processes in Biology, although not documented, are adequate. The PI and the Coordinator circumvented the controls when they submitted a timesheet showing hours not worked. The Department Administrator, who is responsible for alerting the Chair of Biology regarding the questionable time sheet, did not alert him. Biology can make improvements to its payroll processes by developing timesheets that document employees' times in and out, adjusting the due date for timesheets, and documenting its payroll procedures. OVPRED should include hiring and timekeeping in the Grants Management Training.

APPROVALS



Yvonne C. Cox, CPA
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Approved for Publication



Vice Chair, Audit Committee