

**ANDERSON SCHOOLS OF MANAGEMENT
AUDIT OF FACULTY COMPENSATION**

THE UNIVERSITY OF NEW MEXICO

**Report 2007-01
October 16, 2006**



The University of New Mexico

Audit Committee Members

Raymond Sanchez, Chair
Don Chalmers, Vice Chair
John M. "Mel" Eaves

Audit Staff

G. Christine Chavez, Director
Yvonne Cox, Audit Manager
Pamela S. Losinski, Senior Auditor

CONTENTS

EXECUTIVE SUMMARY	1
INTRODUCTION.....	3
BACKGROUND	3
ASM Background	3
Faculty Compensation Background.....	3
PURPOSE.....	5
SCOPE	5
OBSERVATIONS, RECOMMENDATIONS AND RESPONSES.....	6
RESEARCH CONCERNS	6
EXTRA COMPENSATION AND OUTSIDE EMPLOYMENT	8
PROCEDURAL IMPROVEMENTS	11
Notification and Follow-up.....	12
Standardized Request for Outside Employment	12
Payment of Compensation in the Year it was Worked	13
Dates for Performance of Extra Compensation	13
Faculty Contracts	14
ASM FOUNDATION WRITTEN AGREEMENT	15
POLICY IMPROVEMENTS	16
CONCLUSION	18
APPROVALS	18

ABBREVIATIONS

AACSB	Association to Advance Collegiate Schools of Business
ASM.....	Anderson Schools of Management
ASM Foundation.....	Anderson Schools of Management Foundation
EMBA	Executive Masters in Business Administration
Faculty Handbook.....	The University of New Mexico Faculty Handbook
FCSO.....	Faculty Contracts and Services Office
NACUA	National Association of College and University Attorneys
Regents' Policy	The University of New Mexico Board of Regents' Policy Manual
SAC.....	Special Administrative Component
Center.....	Resource Center
University.....	The University of New Mexico
UBP.....	University Business Policies and Procedures Manual

EXECUTIVE SUMMARY

The President requested a review of faculty compensation at the Anderson Schools of Management (ASM). In our review, we assessed the current processes to verify that they had adequate internal controls to protect The University of New Mexico (University) assets and reduce potential risks. The purpose of our review is:

- to determine whether the processes ensure compliance with University policies;
- to test faculty compensation, and related course loads, to ensure that they comply with University policies;
- to evaluate whether the policies governing compensation are consistently and fairly applied; and,
- to provide recommendations for improvements.

There are processes in place, both at ASM and the Faculty Contracts and Services Office (FCSO), to ensure compliance with some of the University policies. However, there were several instances of noncompliance with University policies and federal regulations, specifically related to the method of compensation and reporting compensation, and some of the policies were not consistently applied. Course loads appear to be adequately monitored and comply with University policy.

The following summary provides management with an overview of conditions requiring attention.

RESEARCH CONCERNS

The Office of the Vice President for Research and Economic Development should report a situation to a funding agency where a faculty member received payment for conducting work on an award in a non-standard manner. The University should implement policies and procedures regarding paying Special Administration Components for research extra compensation. We asked the FCSO to provide documentation for all Special Administrative Components paid to faculty so that we can evaluate if there has been other research extra compensation paid in this manner at the University. Management has agreed to report the situation to the funding agency, consider developing additional policies, and provide documentation on the other Special Administrative Components paid to faculty.

EXTRA COMPENSATION AND OUTSIDE EMPLOYMENT

ASM should submit the extra compensation forms to FCSO in a timely manner, report the outside employment, and ensure that all extra compensation forms are submitted properly. Management has agreed to submit the extra compensation forms in a timely manner, report all outside employment, and submit the extra compensation properly.

PROCEDURAL IMPROVEMENTS

The FCSO should send out notifications for the reporting of outside employment and should follow-up with all areas to ensure compliance. The University should pay for compensation in the calendar year that it is worked. Either University policy should be changed, or, enforced, to ensure extra compensation forms include the exact dates and hours that a faculty member worked. The University should change the language in the faculty contract so that it is clear faculty are aware of the University policies that are relevant to their employment. Management has agreed to make all of the procedural improvements.

ASM FOUNDATION WRITTEN AGREEMENT

The University should have a fully-executed written agreement with the ASM Foundation Board. Management has agreed to work with the ASM Foundation Board to get a signed, written agreement.

POLICY IMPROVEMENTS

The current University policy allowing faculty to work one day per week in outside employment is the same or more stringent than 88% of our peer institutions. The University should consider the National Association of College and University Attorneys policy recommendations regarding outside employment. Management agreed to evaluate and make recommendations for changes to policy.

CONCLUSION

The faculty's primary responsibility is to the University; all outside employment is considered secondary. The Faculty Handbook policies and the University's procedures on outside employment are designed to ensure that University faculty members meet this primary responsibility.

This audit identified a number of instances of noncompliance with University policy. Some of the noncompliance issues are the result of initially paying faculty a special administrative component when it was extra compensation, which exacerbated the noncompliance issues for one faculty member. The Faculty Contracts and Services Office might have been able to identify faculty members who were approaching the 39-day limit had ASM paid the extra compensation in a timely manner and provided the information as required in policy.

The current control system can be strengthened through training, developing new policies, enforcing the current policies, and educating faculty on the impact to the University due to noncompliance with federal regulations. However, care must be exercised to ensure that the cost (people and time) of the controls do not outweigh the benefits.

INTRODUCTION

BACKGROUND

ASM Background

ASM offers three masters-level graduate degree programs – Masters of Accounting, Masters in Business Administration, and the Executive Masters in Business Administration (EMBA). The EMBA program is offered through the ASM Foundation. In addition, ASM offers undergraduate Bachelor of Business Administration degrees, with a variety of concentrations. For the 2006-2007 year, ASM has 566 graduate students, 1,002 undergraduate students, 54 full-time faculty members, and an annual budget of \$7,648,024.

ASM goals include: providing quality education, advancing the knowledge and practice of management through scholarly activities, promoting economic development in New Mexico and providing professional development opportunities for its constituents, providing a vibrant intellectual atmosphere, enhancing the career preparedness of students by expanding quality employment opportunities for graduates through strong ties with organizational recruiters, and strengthening relationships with and support to internal and external constituents to enhance visibility and reputation.

In the recent letter extending ASM's accreditation to 2010, the Association to Advance Collegiate Schools of Business (AACSB), commended the school on the following strengths and effective practices:

- Including economic development as a central element of its mission in 2004 and responding quickly and effectively,
- Having an exceptionally well developed learning assurance program,
- Having a well managed EMBA program that is exceptionally successful given its location in a city and state with relatively small populations and a high level of competition from non-AACSB accredited programs,
- Having been exceptionally effective to the ethnic diversity, and,
- Developing strong programs to support education in business ethics and the social impacts of businesses.

Faculty Compensation Background

The majority of faculty have contracts that include 39 weeks in the nine-month academic year. Faculty are exempt employees and do not account for their time on a timesheet. The University of New Mexico Faculty Handbook (Faculty Handbook) policy C130, *Policy Concerning Outside Employment*, encourages faculty to engage in professional activities such as writing, consulting, lecturing, or other similar activities outside of the University.

Pursuant to the Faculty Handbook C140, *Policy Concerning Extra Compensation Paid by the University*, faculty “may occasionally receive extra compensation from the University for additional work done in connection with University-related activities” and the work should not:

- conflict with their regular University duties and assignments,
- create a conflict of interest situation, or,
- come within the scope of the faculty member’s regular responsibilities.

Pursuant to the Faculty Handbook C130, *Policy Concerning Outside Employment*, “Outside employment is defined as professional employment for compensation which is not disbursed by the University.”

The policy states that the outside employment may not exceed the equivalent of one workday per week. The University of New Mexico Board of Regents’ Policy Manual (Regents’ Policy) 5.5, *Outside Employment*, defines the “one work day per week” as 39 days during the contract period. “The 39 days can be arranged in various ways (e.g., one day a week, all at one time); Saturdays and Sundays are counted toward the 39 days.” The Faculty Handbook policy C140, *Policy Concerning Extra Compensations Paid by the University*, and Regents’ Policy 5.6, *Extra Compensation Paid by the University*, state that the combination of the work for extra compensation, outside employment, or both cannot exceed one working day per week.

After the faculty member submits, and the department and college/school approves, a payment for extra compensation, it goes to the FCSO for approval. The FCSO reviews the request to determine if paying the compensation results in exceeding the 39 days. If it does not, FCSO approves the payment and enters the information into a database maintained by FCSO to track the 39 days.

Pursuant to Regents’ Policy 5.5, *Outside Employment*, at the end of each semester and summer session, the deans are required to report the number of days spent by each faculty member on outside employment. The FCSO maintains a database to record the extra compensation as it is paid and record the outside employment days when they are reported at the end of each semester. They use this database to monitor the number of days worked by the faculty. After the FSCO receives the information from the deans, they add the number of days to the database and report any faculty who exceeds the 39 days to the college/school administrator who informs the appropriate chairperson and dean. In addition, the Deputy Provost meets with the faculty to ensure they understand the policy and will comply with it in the future.

The University can pay faculty an additional stipend for performing extra administrative duties. This is paid as a Special Administrative Component (SAC) that is paid in addition to the compensation specified in the contract. The SAC amount is not included in the calculations of extra compensation or outside employment.

PURPOSE

The purpose of our audit was to determine whether ASM's processes ensure compliance with University policies; to test faculty compensation, and related course loads, to ensure that they comply with University policies; to evaluate whether the policies governing compensation are consistently and fairly applied; and to provide recommendations for improvements.

SCOPE

Our audit procedures were limited to reviewing the compensation and related processes at ASM for the nine-month academic period that encompasses the Fall of 2005 through the Spring of 2006. The fieldwork was completed on October 5, 2006.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

RESEARCH CONCERNS

A faculty member was compensated for working on an award through a faculty contract which does not conform to Federal regulations. Payment was made through a Special Administrative Component (SAC) of \$40,000 per year for services performed until 2005. In the Fall of 2005, \$30,000 of the SAC was moved into the faculty member's base salary (dependent upon the continuance of the award) and \$10,000 continued to be paid as a SAC. The faculty member and former ASM Dean set up a resource center (Center) in 2000. When the Center was established, it was funded by a state agency. The faculty member did not have significant administrative duties. Because the money was paid in addition to regular job duties for additional services performed for the award, it could be considered extra compensation. The award is 80% federally funded and 20% state funded.

The Vice President for Research and Economic Development and the Senior Associate Vice President for Research and Economic Development wrote a letter, dated September 25, 2002, to all deans and faculty (which is posted on the Office of the Vice President for Research and Economic Development website) that identifies the procedures to be followed when paying extra compensation on contracts and grants to full-time faculty on nine-month academic year contracts. The criteria in this letter for extra compensation is consistent with the federal guidelines pertaining to paying extra compensation from federal funds, identified in the Office of Management and Budget Circular A-21. The methodology of paying the ASM faculty member extra compensation through a SAC does not meet the criteria set forth in this letter and the federal regulations.

The Deputy Provost approves all SAC payments and the FCSO processes the paperwork. A \$30,000 SAC was approved by the former ASM Dean and Deputy Provost for the 2000 and 2001 faculty contracts. A \$40,000 SAC was approved by the former ASM Dean and Deputy Provost for the 2002 through 2004 faculty contracts. The \$10,000 SAC was approved by the current ASM Dean and Deputy Provost for the 2005 faculty contract. The FCSO and Deputy Provost stated that, when they received the request to pay the faculty member a SAC for administrative duties for the Center, they did not know the size of the Center or that the monies were to be paid for the faculty to perform work on the award. There was no communication on this matter between the FCSO and the Office of the Vice President for Research and Economic Development.

In this situation, a faculty member received a SAC payment for conducting research. A SAC should not be used to pay for faculty work performed on an award. The University does not have policies, guidelines, or procedures for the payments of SACs to faculty. There is an assumption that a SAC payment is only for administrative duties. However, without policy, SAC payments could be paid, and have been paid, inconsistently or inappropriately.

Recommendation 1

The Senior Associate Vice President for Research and Economic Development should report the situation to the funding agency and determine if any re-payment of the award is necessary.

Response from the Senior Associate Vice President for Research and Economic Development

Management concurs. The funding agency will be notified by November 1, 2006, and the Senior Associate Vice President for Research and Economic Development will work with the agency on the determination of any necessary re-payment during the remainder of the Fall, 2006 academic term. We hope that the final determination of this matter will be concluded by January 15, 2007, but this is dependent on the funding agency.

Recommendation 2

The Deputy Provost and the Senior Associate Vice President for Research and Economic Development need to evaluate the award to determine how to handle it in the future to ensure compliance with federal requirements.

Response from the Deputy Provost and the Senior Associate Vice President for Research and Economic Development

If the award were still active management would concur. However, this specific award has been discontinued by the funding agency. The Principal Investigator was notified of this by telephone on or about September 15, 2006.

Recommendation 3

The Provost/Executive Vice President for Academic Affairs and Vice President for Research and Economic Development should consider whether the requirements for paying extra compensation, as stated in the September 25, 2002, letter that is consistent with federal guidelines on contracts and grants, should be in University policy.

Response from the Provost/Executive Vice President for Academic Affairs and Vice President for Research and Economic Development

Management concurs. The Provost/Executive Vice President for Academic Affairs and the Vice President for Research and Economic Development will make this determination. If they decide the September 25, 2002, letter should be formalized within University Policy they will provide a written recommendation to that effect to the University Policy office by January 10, 2007.

Recommendation 4

The Provost/Executive Vice President for Academic Affairs and Dean/Executive Vice President Health Sciences Center need to develop a policy that identifies the requirements for paying a SAC.

Response from the Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President Health Sciences Center

Management concurs. The Provost will work with the Executive Vice President for Health Sciences to develop a university-wide policy that will identify the requirements for paying a SAC. The draft policy will be discussed with the Faculty Senate Operations Committee by March 1, 2007, and presented to the President after discussion with the Senate.

Recommendation 5

The Deputy Provost and the Senior Associate Vice President for Research and Economic Development should develop procedures requiring Office of the Vice President for Research and Economic Development's approval before any SAC amounts are approved and paid from a contract and/or grant index.

Response from the Deputy Provost and the Senior Associate Vice President for Research and Economic Development

Management concurs. The Deputy Provost will approve no further SACs from research funds without a positive recommendation from the Senior Associate Vice President for Research and Economic Development. This recommendation will be based on an analysis of the award, its budget, and the nature of the work to be performed. This change is effective immediately.

EXTRA COMPENSATION AND OUTSIDE EMPLOYMENT

Three ASM faculty members worked greater than the 39 allowable days of combined extra compensation and outside employment during the past nine-month contract period. All of the extra compensation paid went through the appropriate channels and was approved by various levels of University management (Department Chair, Dean, and Deputy Provost). In addition,

[REDACTED] and it appears that all of the extra compensation/outside employment was satisfactorily completed.

The Faculty Handbook C140, *Policy Concerning Extra Compensation Paid by the University* states, that extra compensation “shall not exceed the proportionate share of the base salary of the period in which the work is to be performed. (For example, a person on a nine-month appointment, therefore, shall not normally be paid more than 1/195 of the regular nine-month salary for each full day of work done on the special assignment. The corresponding fraction for twelve-month appointments is 1/260.)” FCSO uses this formula to calculate the number of extra compensation days entered into their database that faculty have worked. For the purposes of the review, Internal Audit has also followed this policy. When we computed the number of extra compensation days worked, we took the faculty’s base salary and divided it by the 195 contract days to get the daily rate. We then divided the compensation amount paid by the daily rate to determine the number of days worked. We refer to this as “computed” below.

One faculty member worked 121.7 days of extra compensation/outside employment. The days of allowable extra compensation/outside employment was exceeded by 82.7 days. The faculty member worked:

- 3.5 days of self-reported outside employment,
- 2.8 days of computed extra compensation for the University,
- 73.2 days of computed extra compensation for the ASM Foundation - 5.8 days of teaching non-credit courses and 67.4 days providing customized training and consulting. Prior to our review, 21.1 of these days were paid as an approved SAC that would not have been included in the extra compensation/outside employment days. According to the faculty member, the actual hours worked for consulting were 308.66 hours, or 38.6 eight-hour work days.
- 42.2 days of computed extra compensation for services performed on an award with an outside funding agency. All of this compensation was paid on an approved SAC that would not have been included in the extra compensation/outside employment days.

Taking a broad interpretation on the use of a SAC for consulting and research, given the absence of any University policy on the use of SACs, it could be interpreted that the faculty worked 29.6 total days (instead of 121.7 days) of extra compensation/outside employment: 3.5 days outside employment, 2.8 days of University extra compensation, 5.8 days teaching for ASM Foundation, 17.5 days (38.6 actual days less the 21.1 days paid on the SAC) providing customized training through ASM Foundation, and 0 days for research since it was paid on a SAC. We consider the above SAC compensations as extra compensation.

Another faculty member worked 9.31 days of extra compensation and later reported 32 days of outside employment for a total of 41.3 days. The days of allowable extra compensation/outside employment was exceeded by 2.3 days.

A third faculty member worked 39.7 days of extra compensation for a department not associated with ASM. The days of allowable extra compensation/outside employment was exceeded by .7 days.

FCSO and ASM Accounting Administration monitoring was ineffective because:

- 53.8 days of extra compensation for \$38,225 was submitted for payment on July 27, 2006. This is after the end of the nine-month contract. The extra compensation was for teaching non-credit courses and providing customized training and consulting through the ASM Foundation from January through June of 2006.
- 21.1 days were paid on a SAC that FCSO understood was for administrative duties; however, it was for teaching non-credit courses and consulting. The \$15,000 SAC was paid pursuant to instructions from a prior Provost. No other ASM faculty were paid in this manner for consulting and teaching non-credit courses.
- 42.2 days were paid on a SAC that FCSO understood was for administrative duties; however, it was for extra compensation work performed on an award with an outside funding agency. No other ASM faculty were paid SAC's for performing research.
- ASM administration had not collected or submitted the outside employment days for the Fall of 2005.

FCSO was not aware of the above number of days worked and therefore could not monitor or report the overage.

Recommendation 6

The Dean, Deputy Provost, and Provost/Executive Vice President for Academic Affairs should evaluate the situation and take any necessary disciplinary action regarding the faculty members who exceeded the one-day per week policy.

Response from the Dean, Deputy Provost, and Provost/Executive Vice President for Academic Affairs

[REDACTED]

[REDACTED], *it is important to recognize that the days fall within the 39 day limit once the monies paid on a SAC for the grant and for the work done through the ASM Foundation are excluded. We agree with the auditors that paying these salary funds as SACs is not standard University practice and should not be continued. However, the decision to pay these sums as SACs was authorized by the university administration under the previous Dean and a previous Provost and these arrangements have continued to the date of the audit. We do not believe that a faculty member can be subject to disciplinary action if the faculty member was authorized by supervisors.* [REDACTED]

[REDACTED]

Recommendation 7

The ASM Accounting Administration should prepare the extra compensation forms and pay faculty members monthly for teaching the non-credit courses and providing customized training/consulting services.

Response from the Dean

Management concurs. The recommended changes will become effective by January 4, 2007.

Recommendation 8

ASM Accounting Administration should comply with University policy by collecting the outside employment information at the end of each semester and reporting it to the FCSO.

Response from the Dean

Management concurs. Outside employment reports have now been made by the Anderson Schools for the academic year of the audit. Procedures are now in place to remind both faculty and department chairs to make these reports in the future by the requested time to ASM Accounting Administration, which in turn will provide this information to FCSO at the end of each semester. These recommended changes were effected during the summer of 2006.

Recommendation 9

The Dean and Deputy Provost need to work with the faculty member to remove the two SACs for research, teaching non-credit courses, and consulting from the faculty member's contract.

Response from the Dean and Deputy Provost

Management concurs. The faculty member's contract was revised to remove the SACs effective October 1, 2006.

PROCEDURAL IMPROVEMENTS

FSCO currently records the extra compensation days (which are paid from the University) before they are paid, and they record the outside employment days when they are reported at the end of each semester. They monitor the number of days that the faculty work and stop any overages as they are submitted for payment. After they receive the first semester outside employment information, if the faculty is approaching the 39 allowable days, they notify the department.

However, they do not know the faculty members and are not aware of the faculty's outside employment activities until the days are reported at the end of each semester. It is ultimately the faculty member's responsibility to comply with University policy.

The following findings relate to weaknesses in procedures that we identified and recommendations that should strengthen the controls and support the colleges/schools in improved compliance.

Notification and Follow-up

The FCSO does not send out reminder notices or follow-up if a college/school has not reported outside employment by the required due dates. At the beginning of each academic year, the FCSO provides a calendar that includes the due dates for the deans to report the outside employment days to the FCSO. The situation, where the faculty worked 41.3 days, may have been prevented if ASM Accounting Administration had collected and reported the data at the end of the Fall 2005 semester. The FCSO could have monitored the situation during the Spring semester.

Recommendation 10

The FCSO should send out a reminder/e-mail to each dean/director at the end of each semester to inform them when the outside employment days report is due and follow-up with the colleges/schools that do not report this information.

Response from the Deputy Provost

Management concurs. Reminders and follow-up will commence at the end of November, 2006. In addition, the revision of the extra compensation/outside employment policy (see Recommendation 16) will address this issue comprehensively.

Standardized Request for Outside Employment

There is no standardized request form for outside employment. Each college/school requests information on outside employment from their faculty so they can report the number of days worked to the FCSO at the end of each semester. A standard request form should include a reference to the University policy limiting the number of allowable days of outside employment, a certification that the information reported is complete and accurate, and the faculty member's signature. Without a standardized request form, the University has no control over the information requested, and the faculty may not be clear about what they are being asked to report and the importance of reporting the information correctly.

Recommendation 11

The FCSO needs to develop a standard request form for outside employment. The form should include the Faculty Handbook policy, certification, and the faculty member's signature.

Response from the Deputy Provost

Management concurs. The FCSO will develop and deploy the standard request form effective at the end of the Fall semester of 2006.

Payment of Compensation in the Year it was Worked

Faculty are sometimes not being paid in the correct years, which could affect the faculty's tax liabilities. There were several situations where the work performed extended from the end of 2005 into 2006 and was paid in 2006. The University is responsible to ensure that compensation is paid during the calendar year that it is worked.

Recommendation 12

The Deputy Provost should send a notice to the academic community informing them that work must be paid for in the year that the services are performed. In addition, when the FCSO gets a request for a lump-sum amount that covers work performed in two different calendar years, they should return it to the department/college/school to be re-submitted with the payment broken out between the two years.

Response from the Deputy Provost

Management concurs. The informational notice will be sent out for the first time at the end of November, 2006. The FCSO will no longer accept lump-sum requests for work covering two different calendar years, but will require submission with payments broken out for the two years in question.

Dates for Performance of Extra Compensation

Extra compensation forms did not include the exact days and hours that the faculty worked when they were being paid for projects that were to be completed over an entire semester. The Faculty Handbook policy C-140 states that, "The Extra Compensation Form should indicate the exact days and hours during which the work was done."

Recommendation 13

The Provost/Executive Vice President for Academic Affairs and Dean/Executive Vice President Health Sciences Center need to evaluate the policy to determine if the exact dates and hours

should be required by policy. If this detail is not required, they should recommend the policy be changed. If this detail is necessary, the FCSO should require that extra compensation forms have the exact days and hours worked before approving and paying the compensation.

Response from the Provost/Executive Vice President for Academic Affairs and Dean/Executive Vice President Health Sciences Center

Management concurs. The revision of the extra compensation/outside employment policy (see Recommendation 16) will take into account the evaluation of the current policy recommended and will incorporate the conclusions reached by the two Executive Vice Presidents.

Faculty Contracts

One faculty member, who worked more than the 39 days allowed, claimed to be unaware that the Faculty Handbook limited the number of outside employment days that could be worked to one day per week. Faculty do not sign a confirmation that they have read and understood that the University policies apply to them.

Every faculty member signs a one-page faculty contract each year. The standard language on the contracts from 2005 states, “This appointment is governed by applicable policies stated in the current *Faculty Handbook*, as amended from time to time, published and distributed by the University, and by relevant New Mexico state laws and regulations. Terms of appointment and an explanation of the tenure code are printed on the back of this form, with further amplification in the *Faculty Handbook*.” This language does not make it clear that faculty should be aware of the University policies that are relevant and applicable to their employment.

Recommendation 14

The FCSO should work with University Counsel to change the language in the faculty contract so that it is clear the faculty should be aware of the University policies that are relevant to their employment.

Response from the Deputy Provost

Management concurs. The Deputy Provost and a Senior Associate University Counsel will draft new language for the faculty contracts that make faculty members aware of University policies relevant to their employment. The new language will be presented to the two Executive Vice Presidents by February 1, 2007, and, once approved, will appear in contracts to be issued in May, 2007 (for nine-month faculty for the 2007-2008 academic year) and by July 1, 2007 (for twelve-month faculty).

ASM FOUNDATION WRITTEN AGREEMENT

For the past decade, the University, through ASM, has been conducting business with the ASM Foundation through a draft agreement. The ASM Foundation has been managing the EMBA program as well as offering non-credit courses, customized training, and consulting to the community. It is our understanding that both parties could not agree on all of the details and that the administrators who had been working on the contract left the University. It would be in the best interest of both parties to finalize an agreement in a timely manner.

When conducting business with an outside legal entity, there should be a written agreement to ensure that everyone agrees to the same terms and conditions and decreases the likelihood of any future misunderstanding. Policy 2010, *Contract Signature Authority and Review*, University Business Policies and Procedures Manual (UBP), states that a contract is a written agreement between two parties and must be reviewed by a contract review officer for legal form prior to signature. In addition, pursuant to Section 5.1 *University Employee Initiating Contract*, Policy 2010, UBP states, that the person initiating the contract is responsible to ensure:

- the contract language reflects the current state of negotiations,
- the contract meets programmatic and University mission requirements,
- the contract represents a good deal for the University,
- he or she can ensure compliance with University obligations,
- that risk management concerns are addressed, and,
- the contract is sufficiently clear and consistent.

Recommendation 15

The Provost/Executive Vice President for Academic Affairs needs to work with the Dean, ASM Foundation Board, and University Counsel to develop an approved, signed, written agreement that is in the best interests of the University, ASM, the ASM Foundation, and the community.

Response from the Provost/Executive Vice President for Academic Affairs

Management concurs. Negotiations will begin immediately and we hope a written agreement will be approved and signed by July 1, 2007. However, since this requires two parties to negotiate and agree, the actual date is uncertain.

POLICY IMPROVEMENTS

University policies allow faculty members to work outside of the University one day per week, or 39 days, during a nine-month academic contract. We compared this to our seventeen peer institutions and found:

- Eight institutions (47%) had the same policy,
- Seven institutions (41%) had a more lenient policy, and
- Two institutions (12%) had a more stringent policy.

Therefore, 88% of our peer institutions had a policy that was equivalent or more lenient than the University policy that allows faculty to work one day per week outside the University during the nine-month contract period.

We compared the University outside employment policies to a report titled, “Faculty Employment Outside of the University: Conflicts of Commitment” produced by the National Association of College and University Attorneys (NACUA). We found that University policies included six of their eleven recommendations. The NACUA recommendations have the potential to strengthen and clarify the current policies. The following are the five NACUA recommendations that are currently not included in University policies:

1. The policies should include provisions on how faculty’s outside employment impacts the post-tenure review process.
2. The policies should contain a review and appeal process for resolutions of apparent conflicts of interest or commitment.
3. The policies should address whether part-time faculty and lecturers will be held to the same standard of accountability as full-time faculty and whether they will have the same professional expectations.
4. The policies should include a clear explanation of why the rules protect faculty by identifying and safeguarding against problems before controversy arises.
5. The policies should clarify if the indemnification policy addresses issues and concerns arising from outside consulting by faculty.

Both the Faculty Handbook policies C130 and C140 address conflict of commitment in regards to extra compensation and outside employment. However, the University does not have a separate conflict of commitment policy and should evaluate the benefits of developing this policy for the future.

Recommendation 16

The Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President Health Sciences Center should consider the NACUA recommendations for future University policy.

Response from the Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President Health Sciences Center

Management concurs. The Offices of the Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President for Health Sciences will collaborate to develop a revised University-wide policy on extra compensation/outside employment during the remainder of the current academic year. Those developing the revised policy will consider the NACUA recommendations, as well as recommendations 4, 10, and 13 made by Internal Audit in this document. The revised policy will be presented to the Faculty Senate Operations Committee in March, 2007, and to the President following Senate approval. It will be implemented immediately after the President approves.

Recommendation 17

The Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President Health Sciences Center should consider developing a conflict of commitment policy for the University.

Response from the Provost/Executive Vice President for Academic Affairs and the Dean/Executive Vice President Health Sciences Center

Management concurs. Consideration will begin immediately. If the two Executive Vice Presidents agree, a conflict of commitment policy will be drafted during the Spring semester of 2007. It will be presented to the Faculty Senate Operations Committee by April 1, 2007, and to the President following positive Faculty Senate action. It will become effective immediately after the President approves.

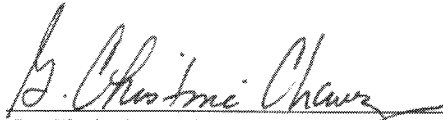
CONCLUSION

The faculty's primary responsibility is to the University; all outside employment is considered secondary. The Faculty Handbook policies and the University's procedures on outside employment are designed to ensure that University faculty members meet this primary responsibility.

This audit identified a number of instances of noncompliance with University policy. Some of the noncompliance issues are the result of initially paying faculty a special administrative component when it was extra compensation, which exacerbated the noncompliance issues for one faculty member. The Faculty Contracts and Services Office might have been able to identify faculty members who were approaching the 39-day limit had ASM paid the extra compensation in a timely manner and provided the information as required in policy.

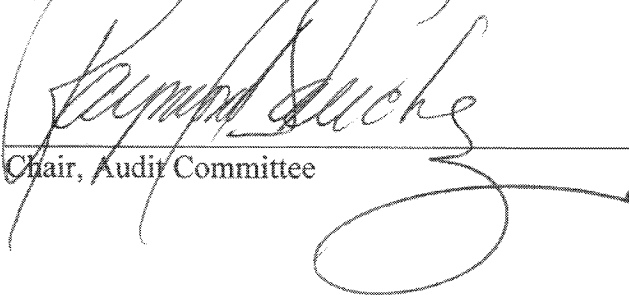
The current control system can be strengthened through training, developing new policies, enforcing the current policies, and educating faculty on the impact to the University due to noncompliance with federal regulations. However, care must be exercised to ensure that the cost (people and time) of the controls do not outweigh the benefits.

APPROVALS



G. Christine Chavez, CPA
Director, Internal Audit Department

Approved for Publication



Chair, Audit Committee