

**EXTENDED UNIVERSITY
LEADERSHIP NEW MEXICO GRANT
AUDIT OF EMPLOYMENT ISSUES**

THE UNIVERSITY OF NEW MEXICO

**Report 2006-19
December 13, 2006**



The University of New Mexico

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ABBREVIATIONS

OMB A-21.....	Office of Management and Budget Circular A-21, Cost Principles for Educational Institutions
Co-PI.....	Co-Principal Investigator
EU.....	UNM Extended University
EVPA.....	Executive Vice President for Administration
IA.....	Internal Audit
LeadNM.....	Leadership New Mexico Grant
NNMNRE.....	Northern New Mexico Network for Rural Education
UBP.....	University Business Policies and Procedures Manual
University.....	The University of New Mexico
UNM.....	The University of New Mexico

EXECUTIVE SUMMARY

Concerns were expressed regarding the LeadNM Grant, a partnership consisting of the Extended University (EU), the College of Education (COE), and Northern New Mexico Network for Rural Education (NNMNRE). Audit results indicate:

- Internal Audit is not in position to determine if payment is due to the Co-Principal Investigator (Co-PI) from COE.
- The Co-PI from COE may be owed monies for 2005 summer research.
- A faculty member may have been overpaid for developing an on-line course.
- The University does not require exceptions to the nepotism policy to be in writing.

2005 SUMMER EMPLOYMENT/RESEARCH PAY

The Vice President of Research and Economic Development should review the schedule of work performed by the Co-PI from COE to determine if the work is within the scope of the grant. The Senior Associate Vice President for Research responded he will provide his opinion on whether the work is within the scope of the grant.

GRIEVANCE POLICY AND PROCEDURES

The Provost should develop a grievance policy and procedures for faculty to use for resolution of disputes. The Provost responded he will establish a task force to review grievance policies from peer institutions and make a recommendation regarding a UNM faculty grievance policy.

OVERPAYMENT TO FACULTY MEMBER

The Dean of the COE and the Project Director should determine whether the faculty member was overpaid for developing an on-line course. The Deputy Provost responded the Dean of the College of Education and the Project Director will determine the possible overpayment and repayment. The Office of the Provost should work with University schools and colleges to develop a rate to be paid for developing and teaching on-line courses. The Deputy Provost responded the Extended University Management Team will work with the Provost's office to develop a written policy establishing rates for teaching and developing on-line courses.

UNDERREPORTED HOURS FOR THE SENIOR RESEARCHER

The Vice President for Human Resources and Deputy Provost should determine how many hours, if any, the Senior Researcher is due. The Deputy Provost responded the Vice President of Human Resources will work with the Project Manager and Deputy Provost to identify if additional wages are owed to the Senior Researcher.

WRITTEN DOCUMENTATION FOR EXCEPTIONS-NEPOTISM POLICY

The Vice President for Human Resources should revise the UNM's nepotism policy to require written documentation and approval for exceptions to the policy that will be in the appropriate personnel files. The Vice President for Human Resources should clarify the definition of nepotism in University policy. The Deputy Provost responded the Vice President of Human Resources will work with the Deputy Provost to update Section 7.2 "Employment of Family Members," UBP Policy 3210, as recommended.

AGREEMENT REVIEW

University Counsel should develop guidelines as to the types of inter-departmental agreements subject to review by University Counsel. The Deputy Provost responded the University Counsel will work with the Deputy Provost to develop the guidelines recommended.

GRANT ADMINISTRATION

The Associate Vice President for Financial Services should make the appropriate process changes to ensure the signature authorities are current and expenses conform to Federal regulations. The Associate Vice President for Financial Services responded after the implementation of Banner HR (July 2007) a process will be developed to track employees given signature authority delegation that leave the university or change departments. The Associate Vice President for Financial Services responded that Contract and Grant Accounting will develop a process to identify transactions that are not for specific goods or services by reviewing account codes and inadequate justifications.

INTRODUCTION

BACKGROUND

UNM's Extended University (EU) was established in September of 1999 to coordinate the institution's distance education programs. EU's mission is to create enriching educational experiences for students throughout the state. Courses in many subject matters are offered including courses from the College of Education (COE).

In October 2002, EU was granted an award from the U.S. Department of Education for the LeadNM grant. Additional partners for this grant are COE and the Northern New Mexico Network for Rural Education (NNMNRE), a cooperative of twenty-eight rural school districts. NNMNRE's mission is to improve the quality of life in northern New Mexico by being an advocate and catalyst for the improvement of education to all children. The intent of the LeadNM project is to train and support approximately 140 principals and assistant principals in selected rural public schools. The grant was for a three-year period and was granted a one-year extension with the project ending on September 30, 2006. The total spent on the grant through August 2006 is \$1,451,208.

The COE, EU, and NNMNRE cooperated in delivering on-line courses and following up on the effectiveness of the program. The PI from EU is Project Director. The Co-PIs were from COE and NNMNRE. In year three of the grant, the Project Director left the program and the Vice Provost for EU assumed the role of PI from EU and Project Director.

The Executive Vice President for Administration (EVPA) received a letter dated September 27, 2005 expressing concerns in three main areas:

- a) The Co-PI from COE has not been paid for time worked on the grant in the summer of 2005.
- b) The faculty members developing on-line courses were entitled to an additional \$2,500 extra compensation.
- c) The wife of the Vice Provost for EU worked on the grant which is an exception to UNM's nepotism policy.

The EVPA asked Internal Audit (IA) to look into the concerns contained in the letter.

PURPOSE

The purpose of the audit is to review the grant with regard to the concerns raised.

SCOPE

The audit was restricted to the concerns contained in the letter dated September 27, 2005, and other information that came to our attention during the audit.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

2005 SUMMER EMPLOYMENT/RESEARCH PAY

Internal Audit is not in a position to determine if the description of the work performed is within the scope of the grant and therefore payable. For the summer of 2005, the Co-PI from COE stated she worked on the grant but has not been paid. She submitted a schedule of hours worked which both the Project Director and Program Manager for LeadNM questioned as to whether the description of the work was within the scope of the grant. In response to their questions, the Co-PI reworked the schedule twice. The initial schedule showed 21 days worked. The most recent schedule reports almost 15 days worked.

Beginning May 15, 2005, the Co-PI had a two-month summer appointment as Chair in the College of Education. The Faculty Handbook, C120, "Summer Session Teaching" states, "The total FTE, which includes any teaching, summer research and outside consulting, of a faculty member during any given week of the Summer Session cannot exceed 125% from all sources."

Based upon our discussion with the Director of Faculty Contracts and Services Office, the Co-PI could have worked 15 days and still performed her duties as chair without violating policy C120.

Recommendation 1

Since the Project Director and the Co-PI cannot agree on whether the work performed by the Co-PI is within the scope of the project, they should appeal to the Senior Associate Vice President for Research and Economic Development for an opinion on whether the work is within the scope of the grant.

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

Management concurs. The Vice Provost for Extended University appealed to the Senior Associate Vice President for Research and Economic Development in a letter dated November 8, 2006. The Senior Associate Vice President has accepted the appeal for resolution and will provide his opinion on whether the work is within the scope of the grant by February 15, 2007.

GRIEVANCE POLICY AND PROCEDURES

UNM does not have a grievance policy and procedures to address the faculty disputes such as the dispute between the Project Director and the Co-PI from COE regarding the 2005 summer research pay. UNM does have a faculty dispute resolution policy, which is lacking in processes for resolving conflicts.

The Faculty Handbook addresses conflict resolution in two places:

- The Faculty Handbook, C345. “Faculty Dispute Resolution Policy” states, “...[it] is designed to provide mediation and conflict resolution to UNM faculty who are experiencing workplace conflicts.”
- The University’s Academic Freedom and Tenure Committee has grievance policies and procedures; however, this committee only handles academic freedom and tenure issues.

Other peer universities such as the University of Texas-Austin and the University of Missouri-Columbia use faculty grievance procedures to handle faculty conflicts. These grievance processes include various procedural steps and an appeal process.

Recommendation 2

The Provost should determine whether the University needs a faculty grievance procedure to supplement or replace the faculty dispute resolution policy. The Provost should review faculty grievance policies from peer institutions to provide a basis for making this determination.

Response from the Provost and Deputy Provost

Management concurs. A previous Provost convened a task force in 1998 to study this exact issue. Members of the Academic Freedom and Tenure Committee, the Faculty Senate Operations Committee, and the Council of Deans studied the policies of peer institutions and made the recommendation to establish the Faculty Dispute Resolution Office. This was done in 1999. Nevertheless, enough time has passed to warrant revisiting this issue, taking into account the record of the Faculty Dispute Resolution Office and the issues raised by this audit. The Provost will establish a task force to review grievance policies from peer institutions and make a recommendation regarding a UNM faculty grievance policy by June 30, 2007.

OVERPAYMENT TO FACULTY MEMBER

While looking at the concerns expressed in the letter, we noted one faculty member was overpaid for developing an EU course. A faculty member was paid \$4,000 through EU for developing and teaching an on-line course and an additional \$2,500 for developing the same course. This is inconsistent with amounts paid to other faculty teaching and developing courses for LeadNM and it does not agree with a signed Memo of Understanding (MOU) between COE and EU.

The Dean of the COE provided a MOU between COE and EU dated March 3, 2003 concerning web-based courses, which states: “the instructor will be paid \$4,000 (based upon a three credit course) for developing and teaching the initial course. Thereafter, the instructor will be paid \$3,000 for upgrading and teaching each iteration of that same course if it is considered an overload in their teaching.” In our conversation with the Co-PI from COE, we were told the faculty member was paid an additional \$2,500 in addition to the standard rate of \$4,000. When the Co-PI tried to pay other faculty the same rate for the development of courses, the Dean of the

COE, in consultation with the Project Director, stopped the payments. LeadNM paid other faculty members according to the MOU, which is \$2,500 less than was received by the faculty member referred to in the paragraph above.

Recommendation 3

The Dean of the College of Education, in consultation with the Project Director, should determine whether the faculty member was overpaid. If she was overpaid, the Dean should work with the faculty member to repay the University.

Response from the Dean of the College of Education

Management concurs. The Dean of the College of Education and the Project Director have met, and a memo was sent on November 8, 2006 to the faculty member requesting a meeting to review this audit finding. The determination about possible overpayment will be made by February 15, 2007. If this determination is positive, repayment will be sought directly following the determination.

Recommendation 4

The Vice Provost for EU should work with the Provost's Office, and University schools and colleges to establish rates for teaching and developing on-line courses. Rates should be published and periodically reviewed to determine whether they are still appropriate.

Response from the Provost and the Vice Provost for EU

Management concurs. The Extended University Management Team will work with the Provost's office to develop a written policy establishing rates for teaching and developing on-line courses. This will be done by February 15, 2007, and made available to faculty at that time. Thereafter the published rates will be reviewed and adjusted, if appropriate, annually.

UNDERREPORTED HOURS FOR THE SENIOR RESEARCHER

The Senior Researcher and her supervisor, the Project Manager, told us the Senior Researcher, who was an hourly employee, was not paid for all the hours she worked.

Section 7. "Paid Time", Policy 3300, University Business Policies and Procedures (UBP) states, "Time worked for pay purposes [is defined as]...Actual time worked at an employee's job location(s) as required by the job assignment."

Previously, the Senior Researcher worked as a salaried employee where she was not paid hourly. She told us that she continued to operate as a salaried employee even though she was paid hourly. Because the Senior Researcher did not report the hours, her supervisor did not pay her. However, the supervisor was aware of these hours, as she was the person who initially told us about them.

Recommendation 5

The Vice President of Human Resources should work with the Project Manager and Deputy Provost to pay the additional wages, if any, which may be owed to the Senior Researcher.

Response from the Vice President for Human Resources and Deputy Provost

Management concurs. The Vice President of Human Resources will work with the Project Manager and Deputy Provost to identify if additional wages are owed to the Senior Researcher. If this is the case these wages will be paid by February 15, 2007.

WRITTEN DOCUMENTATION FOR EXCEPTIONS-NEPOTISM POLICY

The University's nepotism policy is silent as to whether exceptions granted need to be in writing and the definition of an exception to the policy is not clear to the academic community.

Section 7.2. "Employment of Family Members," UBP Policy 3210, states, "Hiring officers may not hire, or supervise a family member or a family member of a line supervisor without the advance approval of the President. If a change in an employee's family relationship results in a violation of this policy, the situation must be corrected within six (6) months through the transfer, resignation, or discharge of one (1) or more of the related employees. Any exceptions must be approved by the President and the Vice President for Human Resources."

We reviewed the grant and noted the following exceptions to the policy:

- LeadNM's Senior Researcher is the wife of the Vice Provost for EU. The Senior Researcher's supervisor, the Project Director, reported to the Vice Provost for EU.
- In year three of the grant, the Vice Provost for EU became the Project Director for LeadNM and signed the Senior Researcher's time reports.

We tried to confirm that these exceptions to the nepotism policy had been properly approved. The Vice Provost EU stated that the former University President had verbally approved the exception to the nepotism policy; however, when we contacted the former University President he stated that it happened so long ago that he did not remember the issue. Currently, the policy does not require written approval of exceptions. If the policy did require written approval, faculty and staff would not need to rely on memory. Instead, the documentation would be in the appropriate personnel files.

While discussing this matter with the Provost and Deputy Provost, we noted IA interpreted the nepotism policy differently than the Office of the Provost has. The Office of the Provost has always interpreted the nepotism policy as allowing family members to work together as long as there is no direct supervisory relationship. IA interprets the policy to mean that a family member cannot be in the chain of command no matter how many layers of supervision exist, unless the President approves an exception to the nepotism policy.

Recommendation 6

The Vice President for Human Resources should work with the Deputy Provost for Academic Affairs to revise Section 7.2 “Employment of Family Members,” UBP Policy 3210. The policy should require that any exceptions to the policy be approved in writing and be placed in the appropriate personnel file, and should clarify the definition of nepotism.

Response from the Vice President of Human Resources and the Deputy Provost

Management concurs. The Vice President of Human Resources will work with the Deputy Provost to update Section 7.2 “Employment of Family Members,” UBP Policy 3210, as recommended, by February 15, 2007.

AGREEMENT REVIEW

University Counsel did not review the agreement between the College of Education and EU to determine whether it was appropriate and legal. The College of Education and EU developed an agreement, *Memo of Understanding between Educational Leadership Program, College of Education and the LeadNM Project, University of New Mexico*. The agreement included language about ownership of copyrighted material and transfer of funds from LeadNM to an unrestricted index in the COE.

UNM does not have a policy addressing review of agreements between University departments. Section 2. “Contract Review and Signature Authority,” Policy 2010, UBP, states, “the term ‘contract’ does not include written agreements between different units of the University.” However, some of the procedures developed in this policy could be used for agreements between University departments concerning contracts and grants. The Provost told IA, in his opinion, that there are several types of inter-departmental agreements covering a variety of issues and that only some types of agreements would merit University Counsel review.

If University Counsel reviews internal agreements before they are signed, this will assure that the departments are agreeing to terms that are legal and appropriate, and will reduce the risk of violating the terms and conditions of contracts and grants.

Recommendation 7

University Counsel should develop guidelines for departments as to which types of agreements need to be reviewed by University Counsel. As part of this process, University Counsel should also develop guidelines for departments as to what terms and conditions should be included in these type of agreements.

Response from University Counsel and Deputy Provost

Management concurs. University Counsel will work with the Deputy Provost to develop the guidelines recommended. This project will be completed by June 30, 2007, and the written guidelines distributed to academic departments, schools, and colleges at that time.

GRANT ADMINISTRATION

Signature Authority

The signature authority information in the Contract and Grant file for LeadNM is not up-to date. When a staff member retired, the signature authority for the LeadNM grant was not changed to reflect the change in staff. Keeping grants files updated for changes in personnel and related authorities will avoid any questions as to whether the grant is being administered properly. The US Department of Health and Human Services Department's policy for award files includes a yearly review of information for updating.

Recommendation 8

Develop a process whereby the grant files are reviewed by Contract and Grant Accounting when personnel changes occur to ensure the signature authority information is current.

Response from Associate Vice President for Financial Services

Management agrees that the signature authority information should be as current as possible. Completed signature authorization forms are now being scanned into the Banner system and are available for the departments to validate via the web. After the implementation of Banner HR (July 2007) a process will be developed to track employees given signature authority delegation that leave the university or change departments. This process would be tied to the Banner Finance security and electronic approvals maintained by the Financial Systems Management Team.

Transfer of Funds

A transfer of \$10,000 from LeadNM to the College of Education may result in a violation of OMB Circular A-21 (OMB A-21) *Cost Principles for Educational Institutions*. The funds transfer was not for a specific service provided by the COE to LeadNM. This transfer was made in March 2005 for ‘support of the development of on-line courses.’ Instead of transferring the funds, the expenses, if allowable, should have been charged directly to the grant.

OMB A-21, states, “Factors affecting allowability of costs: ... (c) they must be given consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the sponsored agreement as to types or amounts of cost items.”

To comply with OMB A-21, the University needs to assure that expenses are directly charged to the grant.

In an e-mail dated September 2, 2005, the Dean of COE, in support of the A-21 provisions, stated that the remaining \$7,500 of unspent funds would be transferred back to LeadNM; subsequently the funds were transferred.

Recommendation 9

The Associate Vice President for Financial Services should establish a process, possibly using analytics, within Contracts and Grants Accounting to identify interdepartmental transfers where the transfer is not for specific goods or services. This process may identify cases that may not comply with OMB A-21.


Response from Associate Vice President for Financial Services

Management agrees that a process be developed to review interdepartmental transfers for compliance with OMB A-21. A new cost transfer policy (UBBPM 2450 effective 6/1/06) specifically addresses the issues raised above. This policy will assist Contract and Grant Accounting in developing a process to identify transactions that are not for specific goods or services by reviewing account codes and inadequate justifications. This process will be defined prior to the start of FY08.

CONCLUSION

Internal Audit could not determine if the work performed by the Co-PI during the summer of 2005 was within the scope of the grant; noted a possible overpayment to a faculty member; and the University does not require exceptions to the nepotism policy to be in writing. A grievance policy and related procedures needs to be developed to address conflicts between faculty members. Adequate monitoring and oversight may have identified solutions for these issues more promptly without involving Internal Audit.

APPROVALS


G. Christine Chavez, CPA
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Approved for Publication


Vice Chair, Audit Committee