

**COLLEGE OF EDUCATION  
FOUNDATION GRANT AUDIT**

**UNIVERSITY OF NEW MEXICO**

**Report 2004-24  
June 16, 2005**

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## ABBREVIATIONS

University.....	The University of New Mexico
Foundation.....	Foundation- for a school district
UNM.....	The University of New Mexico
PI.....	Principal Investigator
UBP.....	University Business Policy and Procedures Manual
Lucent.....	Lucent Technologies
SSTI.....	University of Washington Strengthening and Sustaining Teachers Initiative
IRS.....	Internal Revenue Service

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## **EXECUTIVE SUMMARY**

Contract and Grants Accounting brought concerns to the Internal Audit Department that employees within the College of Education were being paid from a foundation for a school district (Foundation) for work that they were already being paid to do for The University of New Mexico (University). In addition, they were concerned that monies were being spent through the Foundation that should have been spent through the University.

We researched the concerns that were brought to us and determined that the employees in the College of Education were not paid by the Foundation for time that they were already being paid by the University (or they made up the time). We found that, although the PI for the Foundation was a University employee, there was no approval or contract with the University for her to act in this capacity. The University is not responsible for the monies spent through the Foundation under her direction and supervision. We have made recommendations for increased compliance with University policies in the areas of conflict of interest and compensatory time for exempt employees.

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

### **CONFLICT OF INTEREST**

The College of Education should perform analytical reviews of its grants. In addition, disclosure and a written contract should be prepared, in advance, if any employee is to act as Principal Investigator (PI) for another entity. The Dean of the College of Education stated that analytical reviews would be done at the departmental level and sent a letter to all faculty and staff requiring them to disclose and get approval for any outside employment.

### **COMPENSATORY TIME FOR EXEMPT EMPLOYEES**

The College of Education should follow University policies and procedures regarding compensatory time for exempt employees. The Dean of the College of Education sent a letter to all faculty and staff stating that they must comply with University policy by taking annual leave when performing work for another non-UNM entity during regular UNM working hours.

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## **INTRODUCTION**

### **BACKGROUND**

Contract and Grant Accounting personnel brought concerns to the Internal Audit Department that employees within the College of Education Institute for Professional Development Center were being paid by a foundation for a school district (Foundation) for time that they were already being paid to work for The University of New Mexico (University). In addition, they were concerned that monies were being spent through the Foundation, that should have been spent through the University.

The Foundation received monies from Lucent Technologies (Lucent) and the University of Washington for Strengthening and Sustaining Teachers Initiative (SSTI). The Principal Investigator (PI), or person responsible for managing the award for the Foundation, was a University employee: not a Foundation employee. The Foundation awarded a portion of the money to the University through Contract and Grant Accounting. This same employee, who was the PI for the Foundation monies was the Director for the Institute for Professional Development Center and the PI for the contract from the Foundation to the University. In addition, we found Foundation documents in the Institute for Professional Development Center offices and the Foundation's 1099 forms (tax payroll forms) were on a University computer.

From April of 2000 through October of 2002, the Foundation received a total of \$979,835 from Lucent and SSTI. The Foundation contracted to award \$389,858 to the University through Contract and Grant Accounting; however, the University only expended \$71,416 of this amount.

### **PURPOSE**

The purpose of our audit was to determine whether University employees were paid by the Foundation for time that they were already being paid by the University. The purpose of this audit was also to determine if the University was responsible for the monies spent through the Foundation since a University employee was the PI for the grant.

### **SCOPE**

Our audit procedures included meeting with University employees and Foundation employees; reviewing the award, receipting, and expense documents; and, sending confirmation letters to the full-time University employees who were paid by the Foundation. Our work was limited to the specific concerns brought forth regarding the Foundation awards. The fieldwork was completed on May 9, 2005.

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## **OBSERVATIONS, RECOMMENDATIONS AND RESPONSES**

### **CONFLICT OF INTEREST**

The UNM Regents' Policy Manual 6.4, Employee Code of Conduct and Conflicts of Interest, states, "Employees are expected to perform their duties faithfully and efficiently and never give rise to suspicion of improper conflict with interests of the University." It further states, "employees must avoid any conflict of interest that may affect their independent judgment in the impartial performance of their duties and may not use their positions to enhance their direct or indirect financial interest...."

Section 1.2. "Purchasing Goods Off Campus" Policy 4320, UBP states, "New Mexico law states that employees of the University, individuals employed at UNM in the past twelve (12) months, public and student members on advisory boards and committees, and UNM volunteers serving in an official capacity may not use their position to enhance their direct or indirect financial interest or use confidential information learned as employees for anyone's private gain."

From April of 2000 through October of 2002, the Foundation received \$979,835 from Lucent and SSTI. The Director of the Institute for Professional Development Center was the PI for the Foundation and controlled how the monies were spent. Through the Foundation, she directed payments to both herself and other University employees. Although the University had a written agreement to provide \$389,858 of services to the Foundation on a cost-reimbursable basis, the PI chose to spend only \$71,416 from within the University, leaving an unexpended balance of \$318,441.

In addition, the PI had an Institute for Professional Development Center employee use University computers to process the Internal Revenue Service (IRS) Form 1099s for consulting payments that were made through the Foundation. An IRS Form 1099-Misc is used to report payments made to non-employees for the amount of compensation earned for services performed. We were told that the Foundation did not have the staff, equipment, or knowledge to process the 1099s, so the PI directed an Institute for Professional Development Center employee to issue the 1099s for all of the individuals (including herself and other University employees) paid through the grant. Section 1. "Property Management and Control" Policy 7710, UBP states, "University property and resources may be used only for University business." It was inappropriate for the PI to use University equipment for non-University use.

The Dean of the College of Education was not aware that a University employee was the PI for the Foundation: the PI had not received any written approvals or contract. University Counsel advised that if a University employee is to act as a PI for an outside entity there needs to be high level approval and the contract would need to be carefully structured. The PI retired from the University in June of 2002.

There is a conflict of interest situation because the PI, a University employee who acted on behalf of the Foundation, directed payments to herself and used University equipment and resources to perform the Foundation's tax reporting responsibilities. Because of the lack of management at the Foundation, the University employee was not supervised and there was no oversight for the payments that she made for the Foundation.

The Dean told us that this situation was able to occur because the PI had a prior relationship with employees of the Foundation, employees of the school district, and had previously worked as the liaison between the University and the Foundation.

College of Education personnel were not doing any analytical review of accounts to identify problems with the rate of spending. If they had reviewed the contract's rate of spending, they would have been alerted to a potential problem and could have investigated and possibly detected the situation.

### **Recommendation 1**

We recommend that the College of Education perform analytical reviews of its contracts. In addition, we recommend that the Dean provide training, to all faculty and staff employees, to request that she be notified if anyone is working, or has plans to work, as a PI for an outside entity.

### **Response from the Dean of the College of Education**

*CoE agrees that analytical reviews should be performed on its grants and contracts. Having consulted other UNM colleges and schools, analytical tracking of contracts are not performed through the dean's offices administration. As is the case with CoE, colleges charge the oversight of contract and grant tracking to the departments, their administrators and their accountants. The departments are more informed of the specifics and spending patterns of contracts. Spending can vary widely from month to month and semester to semester, depending on the timing and purpose of the contract. The College Administrator will discuss the significance of proper contract and grant oversight with the Department Administrators in one of their regularly scheduled training meetings.*

*CoE will provide training to all CoE faculty that requires the employee to notify the department chair and dean's office if work is being performed outside the UNM entity. Although UNM does not have an appropriate form, the Intellectual Property Waiver Form is the most applicable form for conveying this information. We recognize it is dependent upon the employee's integrity to complete the form. A dean's office memo of July 1, 2005 will be distributed on both CoE faculty and staff list serves that will convey this new requirement. The forms will be available in the CoE Administration office.*

## **COMPENSATORY TIME FOR EXEMPT EMPLOYEES**

Four exempt employees used compensatory time, or flexed their University work schedule, during the time that they were paid by the Foundation. Section 3. “Compensatory Time” Policy 3310, UBP states that, “An exempt employee may not use this time off for absences when the employee is paid for work performed outside the employee’s regular work unit or outside the University; the employee must use annual leave for such absences.” The employees violated policy because they worked additional hours instead of taking annual leave for the time that they worked for the Foundation. The employees were unaware that University policies had anything regarding compensatory time that applied to exempt employees. They believed that, if they worked additional hours, for the time they worked for the Foundation during their regular work time, they would not have a problem because they were still working over forty hours per week for the University doing their normal job duties.

In our meeting with the Dean, she said that she was confident that all of the employees had worked additional hours for the time that they were working for the Foundation. We confirmed this with the individual employees; therefore, at this time we are not requesting re-payment of the monies earned. However, in the future, the policy should be followed and annual leave should be taken for any work time spent earning monies from an employer outside of the University.

### **Recommendation 2**

We recommend that the Dean of the College of Education provide training, to all exempt employees, to remind them that the University policy on compensatory time has a section which applies to exempt employees, and if any exempt employees are paid for working for someone other than the University during time off from their regular work schedule, they must take annual leave.

### **Response from the Dean of the College of Education**

*The CoE Dean’s office agrees that exempt college staff need to be reminded of policies concerning compensatory time and exempt employees using annual leave for work performed for another non-UNM entity during regular UNM working hours. A July 1, 2005 dean’s office memo will be distributed on both CoE faculty and staff list serves.*

## **GENERAL COMMENTS FROM THE DEAN OF THE COLLEGE OF EDUCATION**

*The college appreciates the work of Internal Audit for its recommendations of increased compliance with University policies in the areas of conflict of interest and compensatory time for exempt employees and will convey our reminders and requirements in a July 1, 2005 dean's office memo to be distributed on both CoE faculty and staff list serves. The college remains diligent in its efforts to prevent and detect potential problems and to improve the overall operating procedures of its departments.*


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## CONCLUSION

We researched the concerns that were brought to us and determined that the employees in the College of Education were not paid by the Foundation for time that they were already being paid by the University. We found that, although the PI for the Foundation was a University employee, there was no approval or contract with the University for her to act in this capacity. The University is not responsible for the monies spent through the Foundation under her direction and supervision. We have made recommendations for increased compliance with University policies in the areas of conflict of interest and compensatory time for exempt employees.

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## APPROVALS



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Debra Yoshimura, CFA, CIA, CGAP  
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Approved for Publication



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Chair, Audit Committee