

AUDIT OF REAL ESTATE OPERATIONS

THE UNIVERSITY OF NEW MEXICO

Report 2010-08
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ABBREVIATIONS

ACC.....	American Campus Communities
ATM.....	Automated Teller Machine
Banner	Internet Native Banner
FY.....	Fiscal Year
HED.....	Higher Education Department
HSC.....	Health Sciences Center
ISS.....	Institutional Support Services
LDC.....	Lobo Development Corporation
ML.....	Money Lists
MRN.....	Mind Research Network
PPD.....	Physical Plant Department
RED.....	Real Estate Department
RFP.....	Request for Production
SBOF.....	State Board of Finance
SUB.....	Student Union Building
UBP.....	University Business Policies
UBPP.....	University Business Policies and Procedures
University.....	The University of New Mexico
UNM.....	The University of New Mexico

EXECUTIVE SUMMARY

As part of the fiscal year 2010 audit plan, the Internal Audit Department conducted an audit of The University of New Mexico (UNM) Real Estate Department (RED) operations. The purpose of the audit was to review the functions performed by RED. The audit focused on review of how the University acquires real property and how the University enters into and manages leases. The audit procedures required review of real property purchase documentation and lease agreements for compliance with University Business Policy and Procedures (UBPP), State Statutes, and for comparison to best business practices such as levying penalties for late lease payments. Internal Audit reviewed lease agreements for compliance with lease terms and compliance with UBP. Based on our audit procedures it appears that RED consistently complies with UBP and state requirements with regard to acquisitions; however, its standard operating procedures are not documented. The following summary provides management with an overview of our recommendations to address areas for improvement discovered during the audit.

SUMMARY OF FINDINGS

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES – Real Estate Department

RED DEPARTMENT PROCEDURES MANUAL

RED does not have documented department procedures and RED acquisition files did not always contain required documentation (survey, title insurance, warranty deed, Tax and Revenue appraisal review, purchase agreement, contracted attorney approval, documentation of Higher Education Department (HED) and State Board of Finance (SBOF) approval, and documentation of accordance with the Master Plan) to support execution of acquisition duties. Although RED discovered and provided much of the documentation prior to completion of the audit, the process is inefficient and there may be no assurance that the items would be located if not for historical knowledge of staff.

RED administration should develop and implement a comprehensive procedures manual. The procedures manual should include a process to ensure that required documents, (survey, title insurance, warranty deed, Tax and Revenue appraisal review, purchase agreement, contracted attorney approval, documentation of HED and SBOF approval, and documentation of accordance with the Master Plan) are included in RED files.

CONTRACTED ATTORNEY FEES

RED acquisition files did not contain documentation of attorney approvals. RED often contracts with outside legal counsel when completing University real property acquisitions. Internal Audit reviewed six acquisitions and one disposition transaction of real property; the total amount the University paid to outside counselors for those transactions is \$120,521.99. Review of selected files indicates that the same attorney is contracted with regularly. The attorney is on the list of approved attorneys.

RED files should contain all required supporting documentation, including support for contracted services obtained to complete real property transactions. As noted in the recommendation addressing the RED procedures manual, RED should include documentation of contracted services as a step in the procedures.

SPACE ALLOCATION COMMITTEE REQUIREMENT

RED does not regularly attend monthly Space Allocation Committee Meetings. According to UBP 5200, Allocation and Assignment of Space, the University Space Allocation Committee is a committee appointed by the President with the purpose to "...oversee assignment to and utilization by the various organizational units of all facilities and spaces owned or leased by the University." The policy specifically states that the University Director of Real Estate is part of the committee membership.

To facilitate compliance with UBP 5200, the RED Director should attend all Space Allocation Committee meetings. This will help ensure that RED has a comprehensive catalogue of all University leases.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES – Other University Departments

LEASE REVENUE FROM AMERICAN CAMPUS COMMUNITIES' (ACC) (LOBO VILLAGE) LEASE

The University has not determined how it will distribute lease revenue from Lobo Village annual lease payments. This lease is a source of considerable revenue to the University and should be diligently monitored for accurate and timely receipt.

The Executive Vice President for Administration should determine who (what department) in the University is charged with processing revenue associated with the lease, as well as any potential distribution amongst campus departments and organizations. The Executive Vice President for Administration should present this determination to the Board of Regents for review and approval.

CONTRACT LATE LEASE PAYMENT CLAUSE

Lease contracts do not consistently address penalties/sanctions for late payments. Some older contracts do not address late payment penalty sanctions, while newer contracts contain a standard clause. The University may stand to benefit from imposing and collecting late fees for late lease payments to encourage receipt of timely lease payments.

The Executive Vice President for Administration should work with University Counsel to review lease terms and consider including sanctions for late payments received by a lessor.

OIL AND GAS ROYALTY REVENUE

RED is receiving oil and gas royalty revenue from various University donors. RED's sole responsibility in these transactions is to process the royalty payments when they are received. According to information provided by the Controllers Division, RED received and posted over \$200,000 in royalty revenue to five endowment indexes in Fiscal Year (FY) 2010. The University Foundation would more appropriately account for oil and gas royalty revenue received from University donors.

The Executive Vice President for Administration should consider processing all future gifts of mineral rights through the University Foundation so that royalty payments are properly acknowledged.

CONCLUSION

Real Property acquisitions are negotiated and completed by RED. Based on our audit procedures it appears that RED consistently complies with UBP and state requirements with regard to acquisitions; however, its standard operating procedures are not documented. Various University departments enter into university leases and each department is charged with monitoring lease compliance. RED is by definition the central repository for all University leases and houses all original leases.

INTRODUCTION

BACKGROUND

Real Estate Department (RED) mission statement reads as follows:

The Real Estate Department at the University of New Mexico is responsible for all of the real property holdings, both in selling and acquiring real property for the benefit of the institution. As well as all leasing for the University, both of leasing university facilities to outside entities and of leasing off-campus space for University departments and/or activities. The Real Estate Department manages the property held by the University to maximize the benefit it will bring to the University for long-term growth and development.

The operating budget of RED is comprised of two administrative units, Main Campus administration and Science and Technology Park administration. The following is a budget summary of the combined RED administration:

Fiscal Year	Budgeted FTEs	Approved Budget	Actuals
2007-08	10	\$587,464	\$615,531
2008-09	11	\$735,375	\$672,651
2009-10	11	\$770,420	\$678,971

According to RED's FY2010 budget overview, their core work load (transactions and leasing) has increased approximately two and one-half times in the past 18 years. In addition RED has worked on new initiatives such as the Science & Technology Park, UNM West Campus (Rio Rancho), Health Sciences Center (HSC) Development, Commercial Development Request for Proposal (RFP), Housing RFP and LOBO Development Corporation without any increase in existing staff and resources. During fiscal years 2007 through 2010, RED acquired twelve properties with a value of \$30,330,468 and sold one property at a value of \$7,665. RED supplied a list of current leases as of FY2010. The list contained 55 leases, and the reported total annual lease receipts for FY2010 were \$ 5,157,412. A summary of lease receipts (University as Lessor) and net operating lease payments (University as Lessee) is summarized below:

Summary of Lease Receipts and Payments

	Collections (Revenues)	Payments (Expenditures)
FY 2008	\$ 5,781,907	\$ 6,646,047
FY 2009	\$ 5,983,042	\$ 6,062,864
FY 2010	\$ 5,157,412	\$ 5,890,976

University Master Plan

A Master Plan serves as a blueprint and guide for the vision of the University's physical growth. The University Of New Mexico Board Of Regents adopted and formalized the University Master Plan at the September 13, 2011 meeting. A draft version of the Master Plan existed that clearly indicated the boundaries of the University and laid out the future vision of the various campuses. The draft was first presented to the Board of Regents in August 2009. At that time, the Regents requested additional input from various constituents. The purpose of consulting the Master Plan when making acquisitions is to assure that real property purchases are made in accordance with that plan and support the mission and vision of the University's future development. The University receives Legislative funding; as part of general proposals for future growth, the Legislature requests and requires support for requested real property and capital project funding. The support includes confirmation that the proposed purchase is supported by the Master Plan.

PURPOSE

The purpose of the audit is to review the functions performed by RED. More specifically, to:

- Determine if the University is acquiring properties in accordance with UBP, State Board of Finance (SBOF) and Higher Education Department (HED) requirements;
- Review property lease agreements for compliance with lease terms; and
- Review the contracted legal services process.

SCOPE

The audit focused on the review of the documentation for the University's property acquisitions obtained over the fiscal years FY2007-FY2010, and various types of property Lease Agreements that were current as of FY2010.

AUDIT PROCEDURES

The audit analyzed the acquisitions of real property for compliance with applicable UBP and state statutes, as well as how the acquisitions support the overall University purpose and mission. The audit reviewed compliance with existing UBP and verified receipt of contracted lease revenue. Audit procedures included various University personnel interviews, review of applicable UBP and state statutes, and research of standard real estate business practices.

We selected a judgmental sample of seven of the real property acquisition transactions for review to determine compliance with UBP, state statutes that govern the Higher Education Department (HED), and State Board of Finance (SBOF) requirements. We selected eighteen leases from the list provided for review with compliance with UBP, timely receipt of all lease revenue, and compatibility with standard real estate business practices. Internal Audit also reviewed the ACC (Lobo Village) lease agreement. In total, Internal Audit reviewed nineteen lease agreements. The audit also reviewed the Request for Proposal process for contracted attorney services for real estate transactions.

OBSERVATIONS, RECOMMENDATIONS AND RESPONSES – Real Estate Department

RED DEPARTMENT PROCEDURES MANUAL

Internal Audit discovered that RED does not have documented department procedures. RED files did not always contain required documentation (survey, title insurance, warranty deed, Tax and Revenue appraisal review, purchase agreement, contracted attorney approval, documentation of HED and SBOF approval, documentation of accordance with the Master Plan) to support execution of acquisition duties. Although RED discovered and provided much of the documentation prior to completion of the audit, the process is inefficient and there can be no assurance that the items would be located if not for historical knowledge of staff.

Written procedures are used to establish what should be done, as well as how, when and by whom. Procedures normally identify the step-by-step processes of how to implement and carry out policies, including identifying the specific tasks and clarifying roles and responsibilities. A procedures manual demonstrates how processes are to work, helps employees understand how to accomplish their jobs, and assures the information is located in one place for easy reference. They should be used to provide consistency in the processes, which can increase overall efficiency. Procedures can also be used to improve communications, establish strong internal controls to meet regulatory compliance, and standardize recording keeping processes to help reduce waste, fraud and abuse. Well written procedures will provide employees with the information needed to effectively make decisions at the most appropriate level, streamline administrative processes, and provide the basis for individual and departmental accountability. In addition, they can reduce the risk of confusion, the potential for litigation, and provide documentation for auditors and program reviewers. During a staff transition, written policies and procedures are essential.

In addition, policies and procedures add to the efficiency of operations by minimizing delay in recreating or researching how a similar situation was handled in the past. They provide a guide to ensure that all requirements of any transaction or procedure are appropriately completed.

Recommendation 1

RED administration should develop and implement a comprehensive procedures manual. The procedures manual should include a process to ensure that required documents, (survey, title insurance, warranty deed, Tax and Revenue appraisal review, purchase agreement, contracted attorney approval, documentation of HED and SBOF approval, and documentation of accordance with the Master Plan) are included in RED files.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: The Audit Report states in the Conclusion: “Based on our audit procedures, it appears that RED consistently complies with UBPP and state requirements with regard to acquisitions; however, its standard operating procedures are not documented.” With respect to real property acquisitions, RED is required by state statute and administrative regulation to obtain approval of HED and SBOF following BOR approval. These regulations also require specific documentation such as title commitments, surveys, environmental assessments, etc. This information becomes part of the permanent record of the University. Standard procedures of RED with respect to acquisitions are largely determined by its adherence to these state statutes and regulations. A written procedures manual for real property acquisitions will support this overall policy regime.		
Action to be Taken: Draft and implement a comprehensive RED Procedures Manual that conforms with University and State policies for real property transactions.	RED Director	12 Months following Final Audit Report

CONTRACTED ATTORNEY FEES

RED files did not contain documentation of attorney approvals. RED staff did provide an example of one such approval. RED often contracts with outside legal counsel when completing University real property acquisitions. Internal Audit reviewed six acquisitions and one disposition transaction of real property; the total amount the University paid to outside counselors for those transactions is \$120,521.99.

The University has a valid Request for Proposal (RFP) for outside counsel services. As a result of the RFP, a list of attorneys with specialized practice is on hand at the Office of University Counsel. When RED needs to contract for attorney services for a property transaction, the process is to review the list and request approval from University Counsel for contracting with the selected attorney. Per RED, they complete the process by email. RED typically sends an

email request to University Counsel, University Counsel obtains approval from the President, and communicates said approval to RED.

Review of selected files indicates that the same attorney is contracted with regularly. The attorney is on the list of approved attorneys. The process described above does not require attorney rate comparison to determine if the University may stand to realize cost savings from contracting with other attorneys on the approved list. Per RED, the attorneys contracted with are efficient and save time because they are familiar with University transactions.

Recommendation 2

RED files should contain all required supporting documentation, including support for contracted services obtained to complete real property transactions. As noted in the recommendation addressing the RED procedures manual, RED should include documentation of contracted services as a step in the procedures.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: The Real Estate Department, currently and has consistently in the past, complied with Board of Regents Policy 2.16 "University Counsel" and procedures promulgated by University Counsel in the hiring of outside attorneys to manage its workload. Over the last 8 years or so, these procedures have become more refined and well-documented, as reflected in amendments to RPM 2.16 in December 2007, which requires prior approval of the President for outside counsel. As the Audit Report states, the past practice was to request outside counsel by electronic mail communication the University Counsel, who would obtain necessary approvals, including that of the President, and notify RED and the selected attorney. Currently, University Counsel uses a form to process such requests. Billing is monitored by UC using an automated system, called Serengeti Tracker for review and approval, which includes RED. The Report correctly points out that many times these requests and approvals are not documented in the		

<p>RED transaction files, however, the UC files, including Serengeti are the “official” record of such requests and approvals. The RED Director has maintained a Department file of requests and approvals of outside counsel separate from the transaction files. The RED Procedures Manual (Recommendation 1) will incorporate a requirement that all requests and approvals for outside attorneys will be documented in the RED transaction files in the future.</p>		
<p>Action to be Taken: Include copies of all requests to and approvals from UC for outside counsel in each transaction file.</p> <p>UC will amend the request form to include an estimated budget for the selected attorney.</p>	<p>RED Director</p> <p>Office of University Counsel</p>	<p>Immediately on interim basis. Formalized in Procedures Manual.</p> <p>March, 2012</p>

SPACE ALLOCATION COMMITTEE REQUIREMENT

RED does not regularly attend monthly Space Allocation Committee Meetings.

Per UBP 5200, Allocation and Assignment of Space, the University Space Allocation Committee is a committee appointed by the President with the purpose to “...oversee assignment to and utilization by the various organizational units of all facilitates and spaces owned or leased by the University.” Per the policy the Space Allocation Committee is charged with reviewing space requests and its main function is to promote efficient use of University space. All departments requiring space off campus are required to request approval from the Committee to lease off campus space.

The policy specifically states who is to be part of the Committee and that the University Director of Real Estate is part of the committee membership.

Recommendation 3

To facilitate compliance with UBP 5200, the RED Director should appoint someone from the RED staff to attend all Space Allocation Committee meetings. This will help ensure that RED has a comprehensive catalogue of all University leases.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
<p>Note: RED agrees that the Department should remain an active member of SAC, providing specific input and guidance on consideration of leased space. However, past experience has shown that SAC seldom considers leased space to resolve program needs, as departments often lacks funds necessary to provide rent under lease arrangements. Internal Audit suggests that this recommendation is needed because the SAC may be acting on off-campus lease proposals without RED knowledge. This is highly unlikely as SAC is not empowered or authorized to bind the University and thus is keenly aware of RED role in dealing with leased space proposals and refers such to the Department as necessary. SAC should continue its practice of consulting with RED if leased space is being considered. Plus, Lease Contracts will be entered into the Contract Manager Database being implemented and managed in accordance with UBPPM Policy 2015 “Contract Management and Monitoring.”</p>		
<p>Action to be Taken: RED Director will appoint an RED staff person to attend all Space Allocation Committee meetings when leased space is being considered.</p>	RED Director	Immediately on interim basis. Formalized in Procedures Manual.

RED MISSION STATEMENT AND STRATEGIC FRAMEWORK

RED does not currently have a completed Strategic Framework. Per review of the University’s Strategic Framework, the section dedicated to Institutional Support Services (ISS) for Real Estate is not complete.

A strategic framework communicates the University’s mission and goals and ensures overall success. According to the most recently published Strategic Framework:

Strategic planning in Administration is a continuous work-in-progress, constantly striving to excel to greater heights each year. This website contains a snapshot of the work completed to date and includes an action plan for the following month to date. UNM's Strategic Framework provides a great opportunity to travel with other members of UNM in the same direction on a path that will lead us to a fulfilled vision and our goal of becoming a member of the Association of American Universities as a validation of our excellence as a minority/majority institution.

To continue departmental success and effectively contribute to the University's Strategic Framework. RED should complete the questions requested by the Strategic Framework found at <http://www.unm.edu/~ubppm/re.htm>.

Recommendation 4

The Associate Vice President for Institutional Support Services should work with the RED Director to complete the RED Strategic Framework.

Response from Vice President for Institutional Support

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: Annually RED prepares department goals and an action plan that supports ISS, the EVP for Administration and the University President. ISS will work with RED to align Department mission, vision and goals with the University Strategic Framework.		
Action to be Taken: Develop RED Strategic Framework	AVP for ISS & RED Director	4 Months following Final Audit Report

LEASE MONITORING PROCESS

Internal Audit found the following issues through the course of the lease agreement review:

Timely Deposits

RED did not timely deposit two of the nine lease payments. RED deposited the payment from Alpha Chi Omega (1635 Mesa Vista NE) six days after receipt and the payment from Lamar #5120 three days after receipt.

Per UBP 7200:

Section 2, "Deposits:"

Monies received should be deposited at the University Cashiers Department intact *by* the next working day following receipt. When less than \$50 is involved, monies may be accumulated up to a week. No checks shall be cashed, no purchases shall be made, and no substitution of cash, checks, or other documents shall be made from the actual monies received. The Cashiers Department is housed within the University Bursar's Office, which is the centralized area responsible for the cashiering, depository, and collection functions of the University. The Bursar's Office is located in the Student Services Center.

The University earns interest on deposited funds. When funds are not promptly deposited, the University suffers loss of interest income. Untimely deposits create a risk of loss or theft of monies. The University benefits from short-term interest gain on all its deposits. It is in the University's best interest to comply with deposit policy UBP 7200, by depositing monies the day following receipt.

Billing and Reconciliation of Accounts Receivable

Lease receipts collected by RED are not billed and collected through the University Bursar's centralized accounts receivable system as required by UBP 7200, Section 3.4. The Real Estate Department does not have an exception to UBP 7200 from the Bursar's office on file.

Per UBP 7200:

Section 3.4 "Billing and Reconciliation of Accounts Receivable:"

All accounts receivable activity of the University, with the exception of University Health Sciences Center patient receivables and Contract and Grant receivables, should be channeled through the centralized accounts receivable system under the direction of the Bursar's Office. The Bursar's Office is responsible for:

- Preparing corrections to customer accounts.
- Posting payments to accounts receivable subsidiary accounts.
- Balancing the accounts receivable trial balances to the general ledger and preparing aging reports.
- Billing and collecting accounts receivables.
- Estimating the percentage of revenue that may be uncollectible.
- Approving the write-off of receivables as uncollectible.

Timely reconciliation of payments is critical to ensure accountability for monies. If some of these duties have been delegated to a department, the Bursar's Office will test and review transactions and processes to ensure internal accountability.

Recommendation 5

The Real Estate Director should ensure that collection of all lease payments are deposited at the University Cashier Department intact by the next working day following receipt as required by UBP 7200. In order to address Bursar billing and collection requirements of policy 7200, the Real Estate Director should do one of the following:

- Bill the lessee through the Bursars office in accordance with UBP 7200, Section 3.4.
- Obtain an exception to the policy requirement from the Bursar to allow RED to bill and collect rental receipts.
- Consider working with the Executive Vice President for Administration to revise "Billing and Reconciliation of Accounts Receivable" policy, if necessary.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: RED records indicate that both the Alpha Chi Omega and Lamar lease payments were deposited 4 days after receipt (3 days late). Staff has been reminded to make deposits consistent with UBP 7200. Most (but not all) leases of University property are administered by RED. Occasionally other departments, such as the SUB, lease facilities under their control, in which case the department administers these leases. RED has a rigorous accounting process for managing leases under its control. This process includes maintaining official lease files and records, lease abstracts, accounting data sheets, payment invoices, date stamped checks, deposit money list, and income payment and aging reports, among others. Often problems arise when departments other than RED attempt to administer leases which are beyond the scope of their expertise (see		

<p>Recommendation #11). RED can and should assist other departments in managing leases of institutional facilities under their control. However, experience has shown that administering lease payments through the Bursar's Office (primarily designed to manage student accounts) would be cumbersome and inefficient and would impede the active "hands on" management that RED currently provides.</p>		
<p>Action to be Taken:</p> <ol style="list-style-type: none"> 1) Staff has been advised that deposits are to be made in conformance with UBPP 7200, with no exceptions. 2) AVP for ISS will direct a review of the practice, policies and procedures related to the lease administration process, including billing, payment deposits and lease monitoring and make recommendations to change UBPP 7200 to the EVP for Administration. 	<ol style="list-style-type: none"> 1) RED Director 2) AVP for ISS 	<ol style="list-style-type: none"> 1) Immediately 2) 4 Months following Final Audit Report

ACC (LOBO VILLAGE) LEASE – LESSOR FEES AND REIMBURSEMENT

The lessee paid the "Lessor Fees and Reimbursement" amount late; therefore, the payment is subject to interest. The payment did not reflect inclusion of interest. The RED Director provided information supporting receipt of \$492,327 on July 6, 2010, for an amount stated as "Lessor Fees and Reimbursement." According to the terms of the agreement, the payment should have been received by June 28, 2010.

The University entered into a ground lease with ACC OP LLC (ACC) that became effective May 28, 2010. The purpose of the lease is to build student housing (Lobo Village). According to discussion with RED administration, the lease is one of the first projects taken on by Lobo Development Corporation (LDC). LDC's mission states:

Lobo Development Corporation advances planning, development and management of real property and facilities for the University of New Mexico through new models of engagement, utilizing business focused decision-making within a public educational environment, creating alternative funding sources, and developing public/private partnerships to enhance UNM's competitiveness, sustainability and long-term value resulting in improvement to campus and community quality of life.

University revenue from the lease is as follows:

Section 5.1 Lessee shall pay as Rent the sums of the following amounts:

- 5.1.1.1 First Year: \$333,643
- 5.1.1.2 Second Year: \$343,652
- 5.1.1.3 Third Year: \$353,962
- 5.1.1.4 Fourth Year: \$364,580
- 5.1.1.5 Fifth Year: \$375,518

Initial Rent shall be paid in advance and without prior notice or demand, on the earlier of (a) the Opening Date or (b) August 15, 2011 (with respect to the first Lease year)...

Section 4.10 Lessor Fees and Reimbursement. Lessee shall pay reimbursement of expenses of UNM in the amount of \$492,327.00 which reimbursement is due and payable to UNM no later than thirty (30) days after the Effective Date.

Item #25 of the lease agreement states:

Interest on Past Due Obligations. Unless otherwise specifically provided herein, any amount due under this Lease from Lessee to lessor or from Lessor to Lessee which is not paid when due shall bear interest from the due date until paid at the "Default Rate."

Recommendation 6

RED should research and calculate the interest due as a result of the late payment of the "Lessor Fees and Reimbursement" and collect said interest from ACC as soon as possible.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: RED acknowledges that payment from ACC for "Lessor Fees and Reimbursement" pursuant to the lease was due on June 28, 2010 and was received 8 days late. On June 22, 2010, RED received an inquiry from ACC seeking confirmation of wiring instructions provided on June 18, 2010 by the University Controller's Office. While confirmation		

of such by RED was not necessary, this request may have contributed to the delay in receiving payment. According to the lease, interest on the late payment amounts to \$566.51.		
Action to be Taken: RED will invoice ACC the amount of interest on past due payment.	RED Director	Immediately

MIND RESEARCH NETWORK EXPIRED LEASE

The lease agreement with Mind Research Network (MRN) is currently expired. The University has not executed a new lease with MRN.

Business transactions with outside parties should be supported by a properly executed contract. Absent a properly executed contract, it may become difficult and/or costly to enforce expected contract terms.

Recommendation 7

Upon resolution of outstanding underpaid expense issues between the Physical Plant Department (PPD), HSC and MRN, RED should work with HSC and MRN to complete and properly execute a current lease agreement.

Response from the Real Estate Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Note: The Audit Report states that the MRN lease is currently expired. This is incorrect. MRN exercised its option to extend the "Old Building" lease effective July 1, 2010 for an additional 4 year term. However, the lease will need to be amended to correct the square footage occupied by MRN and to address various billing issues. RED prepared a draft lease amendment on June 30, 2010 for review by MRN and HSC. This amendment is currently on "hold", but will be completed following resolution of outstanding issues between MRN and HSC (see Recommendation #13).		

<p>Action to be Taken: RED will request that MRN and HSC resolve outstanding issues so that the lease amendment can be completed.</p>	<p>RED Director</p>	<p>Immediately upon resolution of MRN & HSC issues</p>
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OBSERVATIONS, RECOMMENDATIONS AND RESPONSES – Other University Departments

ANNUAL LEASE REVENUE FROM ACC (LOBO VILLAGE) LEASE

Per the RED Director, the University has not determined how the lease revenue from the ACC annual lease payments will be distributed. RED will monitor the lease. As such, RED will bill, collect and distribute all funds received from the lessee.

The University entered into a ground lease with ACC that became effective May 28, 2010. The purpose of the lease is to build student housing (Lobo Village). According to discussion with RED administration, the lease is one of the first projects taken on by Lobo Development Corporation (LDC). LDC's mission states:

Lobo Development Corporation advances planning, development and management of real property and facilities for the University of New Mexico through new models of engagement, utilizing business focused decision-making within a public educational environment, creating alternative funding sources, and developing public/private partnerships to enhance UNM's competitiveness, sustainability and long-term value resulting in improvement to campus and community quality of life.

University revenue from the lease is as follows:

Section 5.1 Lessee shall pay as Rent the sums of the following amounts:

- 5.1.1.1 First Year: \$333,643
- 5.1.1.2 Second Year: \$343,652
- 5.1.1.3 Third Year: \$353,962
- 5.1.1.4 Fourth Year: \$364,580
- 5.1.1.5 Fifth Year: \$375,518

Initial Rent shall be paid in advance and without prior notice or demand, on the earlier of (a) the Opening Date or (b) August 15, 2011 (with respect to the first Lease year)...

Recommendation 8

The Executive Vice President for Administration should determine who (what department) in the University is charged with processing revenue associated with the lease, as well as any potential distribution amongst campus departments and organizations. The Executive Vice President for Administration should present this determination to the Board of Regents for review and approval.

Response from Executive Vice President for Administration

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
<p>Note: Board of Regents Policy 3.1 “Responsibilities of the President” clearly designate responsibility for “management of University finances” and “operation and maintenance of real and personal property” to the University President, subject to appropriate reporting and accounting to the BOR. The EVP for Administration has direct oversight of all University business and financial matters. The Lobo Village Lease with ACC is the first phase of a multi-phase student housing program being facilitated and managed by LDC, including administration of ACC leases, subject to EVP for Administration oversight. UNM Administration and BOR are in the process of “standing-up” LDC. LDC is currently focusing on various commercial development prospects on UNM Lands. ACC rent will be needed to fund the initial stages of commercial development projects until cash flow begins from these projects. In formulating a plan for the use of ACC revenues, the EVP for Administration will consider the short-term and long-term needs of the institution, including those of LDC, and will confer with other University administrators.</p>		
<p>Action to be Taken: As the ACC student housing is implemented, the Executive Vice President for Administration will make recommendations to the University President for the use of ground rent income from Lobo Village and will advise the BOR of such determination.</p>	EVP for Administration	6 Months following Final Audit Report

REQUIRED CONTRACT SIGNATURES

Seven of the 19 lease agreements reviewed lacked one of the required signatures, either the EVP for Administration or the Director of Purchasing.

Lease agreements do not always comply with the signature requirements as stated in UBP. UBP 2010, Contracts Signature Authority and Review, Section 4.9 "Real Estate" states:

4.9.1. Main Campus and the Branches - Real Estate

4.9.1.2. Long-Term Leases of UNM Real Property and Leases of Others' Real Property of a Period Exceeding Six (6) Months

The Executive Vice President for Administration and the Director of Purchasing are authorized to sign all long-term real estate contracts. Both signatures are required.

Recommendation 9

The Real Estate Department Director should ensure that University leases contain signatures required by UBP 2010.

Response from the Real Estate Department Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
RED Comments: All lease agreements examined in the RED Audit which were initiated and processed by RED contained the signature of the EVP for Administration. RED does not independently execute any leases on behalf of the University. The omitted signature from the lease agreements examined was that of the Chief Procurement Officer; however, in some instances the CPO signed the Contract Review Form, but failed to sign the agreement itself. Since the Internal Audit Department first raised this issue, RED has taken steps to ensure compliance with UBP 2010 by including both signatures on all long-term lease agreements. Please note however, that on a few		

occasions other departments process leases for signature, in spite of our insistence that they be processed through RED, and sometimes UBP 2010 is not followed by these departments. Although this recommendation was directed to the CPO, RED believes that it has primary responsibility for compliance with UBP 2010.		
Action to be Taken: RED will provide for both EVP for Administration and CPO signatures on all long-term lease forms and reference compliance with UBP 2010 in RED Procedure Manual.	RED Director	Immediately on interim basis. Formalized in Procedures Manual

CONTRACT LATE LEASE PAYMENT CLAUSE

The University received 18 late lease payments from Wells Fargo, CU Anytime and Alpha Chi Omega. The leases do not consistently address penalties/sanctions for late payments. Some older contracts do not address late payment penalty sanctions, while newer contracts contain a standard clause. The University may stand to benefit from imposing and collecting late fees for late lease payments to encourage receipt of timely lease payments.

Recommendation 10

The Executive Vice President for Administration should work with University Counsel to review lease terms and consider including sanctions for late payments received by a lessor.

Response from the Executive Vice President for Administration

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
RED Comments: Currently, Wells Fargo ATM and CU Anytime ATM lease payments are received by SUB/Student Life Department and not RED. The proposed corrective action relative to Recommendation 5 will explore ways to create greater RED oversight of lease administration by other departments, including protocols for dealing with late payments.		

<p>Action to be Taken: In addition to Recommendation 5 Action, EVP for Administration will direct RED and CPO to request that University Counsel review all future lease agreements for adequate provisions that address late payment penalties.</p>	<p>EVP for Administration</p>	<p>30 Days following Final Audit Report</p>
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LEASE MONITORING PROCESS

Internal Audit found the following issues through the course of the lease agreement review:

Timely Deposits

The Student Union Building (SUB) did not timely deposit three of the 12 receipts from the CU Anytime leases.

The SUB did not properly document various payments made by the Wells Fargo Automated Teller Machine (ATM), the CU Anytime ATM's, and the Bank of America ATM. The SUB did not have copies of the Money Lists (ML). Staff members do not consistently date stamp the received date on the check, nor do they consistently keep copies of the checks received. Absent required support, we could not reconstruct the ML. Absent the actual ML or the reconstruction, we could not verify that the SUB deposited receipts timely. As a result of this audit, the SUB is developing department procedures to document proper processing of receipts.

Per UBP 7200:

Section 2, "Deposits:"

Monies received should be deposited at the University Cashiers Department intact *by* the next working day following receipt. When less than \$50 is involved, monies may be accumulated up to a week. No checks shall be cashed, no purchases shall be made, and no substitution of cash, checks, or other documents shall be made from the actual monies received. The Cashiers Department is housed within the University Bursar's Office, which is the centralized area responsible for the cashiering, depository, and collection functions of the University. The Bursar's Office is located in the Student Services Center.

The University earns interest on deposited funds. When funds are not promptly deposited, the University suffers loss of interest income. Untimely deposits create a risk of loss or theft of monies. The University benefits from short-term interest gain on all its deposits. It is in the University's best interest to comply with deposit policy UBP 7200, by depositing monies the day following receipt.

Billing and Reconciliation of Accounts Receivable

Lease receipts collected by the SUB are not billed and collected through the University Bursar's centralized accounts receivable system as required by UBP 7200, Section 3.4. The Real Estate Department does not have an exception to UBP 7200 from the Bursar's office on file.

Per UBP 7200:

Section 3.4 "Billing and Reconciliation of Accounts Receivable:"

All accounts receivable activity of the University, with the exception of University Health Sciences Center patient receivables and Contract and Grant receivables, should be channeled through the centralized accounts receivable system under the direction of the Bursar's Office. The Bursar's Office is responsible for:

- Preparing corrections to customer accounts.
- Posting payments to accounts receivable subsidiary accounts.
- Balancing the accounts receivable trial balances to the general ledger and preparing aging reports.
- Billing and collecting accounts receivables.
- Estimating the percentage of revenue that may be uncollectible.
- Approving the write-off of receivables as uncollectible.

Timely reconciliation of payments is critical to ensure accountability for monies. If some of these duties have been delegated to a department, the Bursar's Office will test and review transactions and processes to ensure internal accountability.

Recommendation 11

The Associate Vice President of Student Life should ensure that collection of all lease payments are deposited at the University Cashier Department intact by the next working day following receipt as required by UBP 7200. In order to address Bursar billing and collection requirements of policy 7200, the Associate Vice President of Student Life should do one of the following:

- Bill the lessee through the Bursar's office in accordance with UBP 7200, Section 3.4.
- Obtain an exception to the policy requirement from the Bursar to allow the SUB to bill and collect rental receipts.
- Consider working with the Executive Vice President for Administration to revise "Billing and Reconciliation of Accounts receivable" policy, if necessary.

Response from the Associate Vice President of Student Life

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
Will submit an exemption from the Bursar to allow the SUB to bill and collect rental receipts.	Timothy Backes	November 01, 2011
SUB is keeping records of all checks and money list along with an Excel spreadsheet of all payments received.	Timothy Backes	February 01, 2011

MISSING/UNDOCUMENTED LEASE PAYMENTS

We noted instances when the responsible department could not provide supporting documentation for receipt of lease payments, nor could they provide support for having noted missed or partial payments and for having billed for said payments.

During our initial review at the SUB the following supporting documents were not included in the SUB files:

- Three monthly lease payments for the Wells Fargo ATM or the utility expenses in connection with operation of the ATM as per the lease agreement;
- Three monthly lease payments for the CU Anytime ATM or the utility expenses in connection with operation of the ATM as per the lease agreement; and
- The utility expenses in connection with operation of the Bank of America ATM as per the lease agreement.

As a result of the initial review of ATM lease payments, the SUB did complete a thorough review of all receipts collected from Wells Fargo, CU Anytime, and Bank of America, and confirmed that all monthly payments were received. However, support for Utility expenses could not be verified. SUB personnel indicated that the utility usage attributable to each ATM could not be determined; therefore, billing for utility expenses attributable to each ATM could not be calculated.

It appears that the contract does not accurately reflect payment terms, as it includes reference to utility expenses that cannot be separately accounted for by each ATM. There is no plausible way to break out utility charges for each ATM; therefore, utility expenses have not been billed or collected from the banks for ATM operations. There appears to be a discrepancy in the terms of

the contract and standard daily operations and lease receipts. The University is not collecting payments from ATM vendors for utility expenses associated with the ATM's.

Recommendation 12

The SUB should either determine a method to bill for utility expenses attributable to each ATM, or amend the ATM contracts, eliminating reference to utility expenses.

Response from the Associate Vice President of Student Life

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
The SUB will be working with the Real-Estate Department as each ATM contract is renewed eliminating reference to utility expenses.	Timothy Backes	CU Anytime - UNM/HSC MedII – December 31, 2012 CU Anytime - UNM SRC – May 31, 2012 Cu Anytime – UNM Bookstore – May 31, 2016 CU Anytime – UNM SUB – July 1, 2014 Bank of America – SUB - August 31, 2013 Wells Fargo – SUB - August 31, 2012

MIND RESEARCH NETWORK LEASE PAYMENTS

Initially, the audit discovered that there was a dispute regarding operating costs (utility charges and custodial services) billed to MRN, formerly MIND Institute in calendar year 2009 and 2010 for the lease at 1101 Yale NE. MRN was over billed; however, the amount was not yet determined. After presenting preliminary recommendations to both parties, HSC and MRN, the two parties worked to resolve the discrepancy with regard to utility charges. As a result, MRN received a refund for over billed and collected utility charges in the amount of \$100,594.58. During review of operating costs, HSC discovered it under billed MRN for custodial services by \$55,446.44 from September 2008 through June 30, 2011. HSC informed MRN of the amount due for custodial services. MRN responded in agreement that custodial charges were under billed to MRN and confirmed understanding of how the charges were computed; however, MRN respectfully declined to pay the charges for services prior to January 1, 2011 in the amount of \$46,318.82 because MRN's prior fiscal years are closed. MRN agreed to pay the increased monthly custodial charges from January 1, 2011 forward. HSC informed Internal Audit that they do not agree with MRN. To date, MRN has not remitted payment to HSC for under billed custodial services; \$46,318.82 is still in dispute.

There are two leases that apply to the location noted; one for the original structure, and the other for renovations and additions made to the location. Per the lease agreements, MRN is responsible for a portion of operating costs. The costs are determined by the percentage of the building they occupy, as well as preventive maintenance charges and renewal costs. The lease occupancy rate changed. Costs to the University have increased since inception of the lease, and should be considered in rate revisions to the tenant; however, charges to the tenant have not been appropriately revised.

PPD is charged with billing MRN and has been doing so via the University Accounts Receivable system.

Recommendation 13

PPD and HSC should work with MRN to resolve underpayment of custodial services as soon as possible.

Response from the Physical Plant Director

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
PPD will continue meetings with HSC and MRN to resolve this issue	PPD Director	30 Days following Final Audit Report

Response from the Vice President for Research, Health Science Center

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
HSC Financial Services and PPD have worked with MRN to resolve custodial charges due HSC. UNM issued invoice number S1898243 on September 12, 2011 in the amount of \$46,318.62. MRN has confirmed in writing on September 29, 2011 that this invoice is in process to be paid on October 12, 2011.	HSC Sr. Exec. Financial Officer UNM Controller	October 12, 2011

LEASE EXPENSE ACCOUNT CODE

Internet Native Banner (Banner) does not have an account code specific to lease payments made for real property. As a result, we could not reconcile a list of lease agreements provided by RED for leases between UNM and outside parties to the lease payments recorded in Banner. We could not determine if University Departments are entering into lease agreements with proper approval.

The University currently uses account code 7060, Facility Rent Expense General for lease payments. This account code includes long-term lease or short-term rental of buildings, banquet rooms, and storage units. To facilitate better management of lease and rental payments made, the University should have more specific account categories. Recording expenditures according to more specific account codes would provide: better internal control; a more accurate account of lease payments; and a method to verify that University departments are not entering into leases without proper approval.

Recommendation 14

The Associate Vice President for Institutional Support should consider adding an account code to separately record real property lease payments and explore the possibility that the Contract Monitoring System that is being implemented include all lease agreements.

The Associate Vice President for Institutional Support should notify users of the new account code, its proper use, and the reason for its creation. The notification should include a reminder regarding proper execution of a lease agreement for property and the requirement to inform RED of all lease agreements.

Response from Associate Vice President for Institutional Support

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
<p>Note: The issue appears to be whether departments are entering into lease transactions without proper approval. From time to time, RED or Purchasing Department discover the existence of a lease that has been entered into by a department without appropriate review by RED, UC or Purchasing and without proper signatures in accordance with UBP 2010. Fortunately, this is a rare occurrence. Purchasing Department has been diligent in “flagging” any payment requests for leases (or similar arrangements), regardless of account code, that do not originate from RED. The current account code 7060 Facility Rent Expense General is intended to capture all lease arrangements, regardless of purpose or term. Incorporating a new account code for “normal” lease arrangements may be confusing and may not serve its intended purpose. A noncompliant department could either unknowingly or deliberately use the wrong account code and thus avoid detection via the account code itself.</p>		
<p>Action to be Taken: Confer with University Controller and Purchasing Department to determine the efficacy of the suggestion of a new account code for lease transactions. Report findings and make recommendation to the EVP for Administration.</p>	AVP for ISS	3 Months following Final Audit Report

OIL AND GAS ROYALTY REVENUE

RED is receiving oil and gas royalty revenue from various University donors. RED's sole responsibility in these transactions is to process the royalty payments when they are received at the RED office. RED prepares a money list and deposits the revenue in six endowment indexes, depending on the donor. RED administration is not aware of how long the practice of receiving royalty revenue has been under their purview. According to information provided by the Controllers Division, RED received and posted over \$200,000 in royalty revenue to five endowment indexes in FY2010. The funds are used for scholarships, student salaries, and faculty salaries.

Royalty revenue received from University donors would be more appropriately received and accounted for by the University Foundation.

Recommendation 15

The Executive Vice President for Administration should consider processing all future gifts of mineral rights through the University Foundation so that royalty payments are properly acknowledged.

Response from the Executive Vice President for Administration

Action Items		
Corrective Action Planned	Assigned to	Targeted Completion Date
<p>Note: Various aspects of the administration of Oil & Gas properties has, over the past 30 years or so, been managed by the Foundation, General Accounting, Budget Office and RED. The UNM Foundation is the most logical unit to oversee this function; however, it requires a certain level of specialized knowledge for proper management. Staff training and outside consultation will be required.</p> <p>EVP for Administration, working with UNM Foundation, Controller's Office, UC and RED, will make recommendations to the University President for oversight of this function.</p>	<p>EVP for Administration</p>	<p>3 Months following Final Audit Report</p>

APPROVALS



Manu Patel
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Approved for Publication



Chair, Audit Committee