

# AUDIT OF ATHLETICS ADMINISTRATION

## THE UNIVERSITY OF NEW MEXICO

**Report 2017-15  
May 16, 2018**



THE UNIVERSITY OF  
NEW MEXICO.

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## ABBREVIATIONS

Department.....	University of New Mexico Athletic Department
DPEZ.....	Direct Pay Request
FLSA.....	Fair Labor Standards Act
FY .....	Fiscal Year
GAAP.....	Generally Accepted Accounting Principles
GPA.....	Grade Point Average
HR.....	Human Resources
I&G .....	Instructional and General Funding
Internal Audit.....	University of New Mexico Internal Audit Department
IPRA .....	Inspection of Public Records Act
IT.....	Information Technology
MWC.....	Mountain West Conference
NSP .....	Non-Standard Payment
OSA.....	New Mexico Office of the State Auditor
P-Card .....	Purchasing Card
UAP.....	University Administrative Policies and Procedures
University.....	The University of New Mexico
UNM .....	The University of New Mexico

*Lack of a comprehensive business manual has contributed to Athletics conducting financial and operational activities in an informal manner, increasing the risk of inaccurate financial reporting, unallowable activities and transactions, lack of supporting documentation for financial transactions, etc.*

*It is common practice for Athletics to reconcile certain accounts at fiscal year-end, instead of monthly.*

*Adjusting journal vouchers were required to be posted by Unrestricted Accounting to true up Athletics receivable balances, which were misstated due to incorrect revenue accruals.*

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## **EXECUTIVE SUMMARY**

The scope of the Athletics Administration audit was for fiscal years 2016 and 2017. Issues in certain areas within the audit have been addressed, and corrective action was implemented by Athletics prior to the date of this report.

### **BUSINESS PROCESSES**

#### Comprehensive Business Manual

Athletics does not have a comprehensive business operations manual that covers the key operational processes. The processes that lack documentation include, but are not limited to: journal vouchers, accounts payable, purchasing card usage, cashiering operations, payroll, financial award processes, ensuring compliance with endowment restrictions, fundraising, etc.

#### Account Reconciliation

Strong internal controls for accurate financial reporting include timely reconciliation of accounts. Certain revenue accounts are not monitored or reconciled throughout the year, and are adjusted to actual revenues at year-end. Original budgeted expenses are based on projected revenues and accruals, and are not closely monitored or adjusted throughout the year to reflect projected revenue shortfalls.

Athletics' practice of untimely account reconciliation increases the risk of over-expended budgets, misstatement of revenues for financial reporting, and year-end deficits.

Financial Analysis, by Funding Source - FY 2017			
	Revenues	Expenses	Revenues Over/(Under) Expenses
<b>Unrestricted</b>			
Athletics Activities	\$ 34,030,226	\$ 34,401,803	\$ (371,577)
Instruction and General	699,875	663,004	36,871
Other	93,904	95,018	\$ (1,114)
Subtotal	<u>\$ 34,824,005</u>	<u>\$ 35,159,825</u>	<u>\$ (335,820)</u>
<b>Unrestricted, designated</b>			
Public Service	2,712,357	2,314,464	\$ 397,893
Endowed Spending	271,913	316,013	(44,100)
Subtotal	<u>\$ 2,984,270</u>	<u>\$ 2,630,477</u>	<u>\$ 353,793</u>
<b>Total Unrestricted</b>	<b><u>\$ 37,808,275</u></b>	<b><u>\$ 37,790,302</u></b>	<b><u>\$ 17,973</u></b>
<b>Restricted</b>			
Endowments	\$ 481,061	\$ 224,397	\$ 256,664
Agency (Lobo Club)	341,476	94,195	247,281
Unexpended Plant	734,047	622,558	111,489
<b>Total Restricted</b>	<b><u>\$ 1,556,584</u></b>	<b><u>\$ 941,150</u></b>	<b><u>\$ 615,434</u></b>
<b>Grand Total</b>	<b><u>\$ 39,364,859</u></b>	<b><u>\$ 38,731,452</u></b>	<b><u>\$ 633,407</u></b>

Source: Banner Accounting System

*The Athletics department is not closely monitoring actual revenues and adjusting budgeted expenses to reflect reductions in available resources.*

## FINANCIAL ANALYSIS

During FY 2017, the Athletics department generated approximately \$37.8 million in revenues through unrestricted funding sources and approximately \$1.6 million, net of transfers, through restricted funding sources. Athletics reports a deficit of approximately \$4.7 million for unrestricted funding sources.

Athletics also generates other unrestricted revenues, which are “designated” for specific purposes. Athletics received approximately \$3.0 in these unrestricted funds and had approximately \$2.6 million in reserves at June 30, 2017. The schedule presents revenues by funding source and related expenses for FY 2017. Reserves by funding source are presented in the body of the report.

### Athletic Activities Financial Management

General Athletics Activities account for over 90% of unrestricted financial activity for Athletics.

Athletics has experienced significant shortfalls in budgeted ticket sales and fundraising efforts over the past two years. Although ticket sales have been significantly under budget for three major programs (men's basketball, football, and women's basketball), the expense budgets were not reduced to reflect actual resources available, significantly contributing to expenses exceeding revenues during FYs 2016 and 2017, and the general activities deficit increasing from \$2.8 million to \$4.7 million at the end of this two-year time period.

*The Agency fund transferred \$2,861,594 on September 29, 2016 for its FY 2016 commitment. In addition to this transfer, the following were also transferred to Athletics unrestricted funds.*

- *Pit Renovation Debt Service: \$899,265*
- *Sports Enhancement Funds: \$750,973*
- *Other: \$377,550*

*There is no written documentation for the establishment, intended purpose, or procedures for the use of the Agency Fund.*

UNM Athletics Restricted Funds - FY 2017				
	Agency	Endowments	Plant	Total
<b>Revenues</b>				
Transfers from Lobo Club	\$ 2,813,385	\$ -	\$ -	\$ 2,813,385
Transfers to Athletics Unrestricted	(4,881,269)	-	-	(4,881,269)
Unrealized Gains on Investments	-	498,308	-	498,308
Gifts	2,360,905	-	-	2,360,905
STB Revenue	-	-	505,547	505,547
Miscellaneous	47,955	-	-	47,955
Other Transfers and Allocations	500	(17,247)	228,500	211,753
Total Revenues	\$ 341,476	\$ 481,061	\$ 734,047	\$ 1,556,584
<b>Expenses</b>				
Services and Fees	\$ 58,295	\$ 222,684	\$ 9,828	\$ 290,807
Equipment and Supplies	2,508	-	401,878	404,386
Other	33,392	1,713	210,852	245,957
Total Expenses	\$ 94,195	\$ 224,397	\$ 622,558	\$ 941,150
Revenues over/(under) expenses	\$ 247,281	\$ 256,664	\$ 111,489	\$ 615,434
Reserves, beginning of year	\$ 2,980,068	\$ -	\$ 8,508	\$ 2,988,576
Adjustments	\$ -	\$ (256,664)	\$ -	\$ (256,664)
Reserves, end of year	\$ 3,227,349	\$ -	\$ 119,997	\$ 3,347,346

Source: Banner Accounting System

**Deficit Reduction Plan**

The deficit increased by \$371,577 to \$4,714,000 at the end of FY 2017. Subsequently, a ten-year deficit reduction plan (FY2020-FY2029) was approved by the UNM Board of Regents.

**Restricted Funding**

Restricted funding primarily consists of donations and contributions collected by the Lobo Club, and subsequently transferred to an Athletics Agency fund. This Agency fund is intended to act as a holding account for funds used for scholarships, Pit Renovation debt services payments, and sports enhancement funds.

The Agency fund is also utilized to record gifts to UNM Athletics received through credit card payments. Athletics received \$2.3 million in gifts by credit card, which were recorded directly to the Agency fund accounts.

At the beginning of each year, Athletics makes a financial commitment from the Agency fund to Unrestricted Athletics accounts for funding financial awards.

The Agency fund had a reserve balance of \$3,227,348 at June 30, 2017. However, these reserves are committed for the FY 2017 transfer of \$2.6 million for financial awards and deferred gifts received for the 2017-2018 Athletic year. These reserves are not available for unrestricted use. The table at left presents Athletics restricted funding for FY 2017.

*The ability to generate a financial report in Banner that captures payroll costs by Athletics program is not available. Thus, the full picture of financial activity for each Athletics program is not available for management to monitor and assess financial performance of each Athletics program.*

*Excess cash for 20 cash advances tested totaling \$2,357 was not deposited in a timely manner.*

*Internal controls are adequate for the use of prepaid debit cards for student cash per diem and housing allowances.*

### **Financial Reporting by Athletics Program**

Adequate financial reporting in Banner should allow Athletics to run financial reports that present a full picture of budget and actual revenues and expenses by sports program.

Internal Audit performed a financial analysis of the financial reporting structure set up in Banner for Athletics and noted misreporting, by Athletics program, for Labor and Financial Awards accounts.

Although these are significant expense accounts, management does not have the ability to generate operating ledger reports in Banner to review and perform an assessment of these accounts by Athletics program. As a result, Management's ability to analyze and control the financial performance of the Athletics department as a whole is significantly affected.

### **CASH DISBURSEMENTS**

#### **Cash Advances**

Athletics P-Cardholders have the ability to obtain cash advances using the P-Card, primarily needed for tips and incidentals during team travel, and various costs related to coaches' recruitment trips.

Due to instances of misuse and identified risks related to cash advances during FYs 2015 and 2016, the UNM P-Card office implemented tighter restrictions and strengthened internal controls for cash advances.

In December of 2016, Athletics also implemented prepaid debit cards used for student athletes and student managers' cash

*Although the Athletics department had 34 P-Cardholders generating approximately 4,500 P-Card transactions, and approximately 1,100 travel reimbursements from January 1, 2017 to June 30, 2017, there are only three assigned Chrome River approvers for the Athletics department.*

*During the month of June 2017, one courtesy car user reported 610 of 673 miles, or 91%, of use as business miles, which is not reasonable for the Athletics employment position.*

allowances for per diem, housing allowances, etc., significantly reducing the need for cash advances.

#### Chrome River Approvers

The review and approval process for P-Card and employee reimbursement transactions in Chrome River is a key internal control to ensure transactions are allowable, have appropriate supporting documentation, and are recorded to the correct account code.

#### Payroll and Employee Benefits

##### Courtesy Car Program

The Athletics Department provides courtesy cars to selected employees at the discretion of the Director of Intercollegiate Athletics. The Athletics department had 36 employees with courtesy cars at the end of FY 2017. The taxable portion of the courtesy car benefit is added to the employee's earnings.

During FYs 2016 and 2017, Athletics did not have a signed agreement for all courtesy car recipients, nor a written policy for courtesy car use.

Athletics has currently improved internal controls over the courtesy car program by requiring all recipients to sign a courtesy car agreement and drafting a policy for courtesy car use.

## **CONTRACTS AND AGREEMENTS**

### Learfield Communications d.b.a. Lobo Sports Properties

#### Marketing and Media Rights

UNM executed an agreement with Lobo Sports Properties on March 7, 2013,



*Payments made by Lobo Sports Properties in accordance with an unsigned amended agreement have, and will, result in underpayments as illustrated below.*

Learfield Payments Received vs. Contracted Payments			
	2015-16	2016-17	2017-18
	\$2,405,500	\$2,136,500	\$2,161,500
	2,065,000	2,134,000	2,179,000
	550,000	700,000	250,000
<b>Total Payments Received</b>	\$5,020,500	\$4,970,500	\$4,590,500
<b>Contracted Payments</b>	\$5,088,500	\$5,158,500	\$5,028,500
<b>Underpayment</b>	<b>\$ (68,000)</b>	<b>\$ (188,000)</b>	<b>\$ (438,000)</b>
	Accumulated Cash Underpayment	\$ (694,000)	
	Less: Benefits Returned	\$ 666,000	
	<b>Net Underpayment</b>	<b>\$ (28,000)</b>	

Source: Athletics

*Athletics worked with UNM Legal Counsel and Learfield in amending the 2013 Marketing and Media Rights agreement with Learfield Communications to resolve this issue.*

*Expenses of \$45,677 were charged to endowment funds are recorded via journal voucher by transferring a portion of recorded expenses from the Athletics index 925374 to endowments based on their funds available.*

*Ten disbursements totaling \$47,853 from endowment funds tested did not comply with donor intent.*

granting multi-media rights to: inventory, including print; media; sponsor; existing or new signage not already contracted to other parties; and, other promotional and sponsorship rights for football, men’s and women’s basketball games, men’s baseball games, and other intercollegiate sports.

Lobo Sports Properties made underpayments to UNM during FYs 2016 and 2017, which were due to an unsigned and undated amended agreement with Lobo Sports Properties, reducing the Licensing Fee due to UNM from \$4,668,000 to \$4,300,000 in 2015-2016 and \$4,768,000 to \$4,130,000 in 2016-2017.

Pepsi Sponsorship

Athletics makes annual payments of \$450,000 to Learfield Communications, Inc. for a “Pepsi” contract. However, per the contract, this amount should have been deducted from Learfield’s payments to UNM, rather than paid to Learfield by UNM without a signed purchase order/contract.

**ENDOWED FUNDS**

Compliance with Donor Intent

Athletics is responsible for ensuring that adequate processes are in place for disbursements from endowed spending accounts, and that the disbursements comply with donor intent.

Financial award and disbursement activity for endowments is not a separate process from financial award and disbursement activity from the Athletics index (925374), which is primarily used for recording financial awards.

Pit Suite and Club Seats Accounts Receivable					
Fiscal Year	Balance	Adjustments	Collected	Collectable	Uncollectable
2010	\$ 27,334	\$ -	\$ -	\$ -	\$ 27,334
2011	32,834	-	11,666	-	21,168
2012	70,334	-	49,585	-	20,750
2013	11,525	-	-	-	11,525
2014	194,489	47,500	36,739	10,000	100,250
2015	90,200	-	87,200	-	3,000
2016	5,925	-	5,924	-	-
<b>Total</b>	<b>\$ 432,641</b>	<b>\$ 47,500</b>	<b>\$ 191,114</b>	<b>\$ 10,000</b>	<b>\$ 184,027</b>

Source: Lobo Club

*Without an executed contract or formal sales invoice, it is difficult for UNM to pursue legal avenues to collect disputed receivables.*

*There is not an executed agreement in place that clearly defines the roles and responsibilities pertaining to UNM and the Lobo Club for the sale and collection of Pit Suites and Club Seats.*

NCAA Final Four Costs to UNM					
Year	# of Tickets	Amount	Lodging	# Rooms	Total Cost
2011	18	\$ 3,427.00	\$ 2,056.00	2	\$ 5,483.00
2012	16	3,542.50	2,864.00	2	6,406.50
2013	16	3,825.00	-	N/A	3,825.00
2014	13	3,371.25	2,904.00	3	6,275.25
2015	10	3,135.00	1,638.00	1	4,773.00 *
2016	12	4,681.00	1,728.00	1	6,409.00
2017	28	13,119.50	-	N/A	13,119.50
<b>Total</b>	<b>113</b>	<b>\$ 35,101.25</b>	<b>\$ 11,190.00</b>	<b>9</b>	<b>\$ 46,291.25</b>
					Reimbursements \$(16,426.00)
					<b>Net \$ 29,865.25</b>

\* \$1,460.00 for private donors - 1 room.

Source: Banner Accounting System

*The purchase of NCAA and MWC tickets, and lodging for private individuals from UNM funds may violate the Anti-Donation Clause of the New Mexico Constitution.*

## OTHER

### Pit Suite and Club Seat Sales

On July 14, 2017, a news article was reported by a media outlet regarding unpaid Pit Suite and Club Seats sales. According to the article, there were uncollected receivables of \$432,641 from Pit Suite and Club Seat sales dating back to FY 2010.

The schedule presents a summary of Pit Suite and Club Seat receivables, by fiscal year.

Receivables deemed uncollectable are due to a lack of contract, sales invoice, or other supporting documentation indicating a valid sale.

The Lobo Club is responsible for the sale and collection of suites and club seats, and for recording the financial activity related to the sales and collections.

Beginning with the 2017-18 season, the Lobo Club improved processes for the sales and collection of Pit Suites and Club Seats.

### NCAA and Mountain West Conference Tournament Tickets

Athletics does not have a formal process for the purchase and distribution of NCAA and MWC tickets. The former Director of Intercollegiate Athletics distributed tickets to employees who reimbursed UNM for the ticket costs, and others were distributed to private donors and individuals without reimbursement to UNM. In addition, unreimbursed lodging was purchased for private donors during the 2015 NCAA Final Four tournament.

*Parking fees of \$11,545 collected for a football game on November 5, 2016 were not deposited until November 18, 2016.*

*The Events Planner receives parking fee collections from the parking cashiers, prepares the cash reconciliation, and makes the deposit at the UNM Cashier's office. Subsequent reviews of cash collection and deposit activity is not performed.*

*Athletics' current practice for processing part-time and on-call timesheets for Events Management does not comply with the Department of Labor Fair Labor Standards Act.*

*Athletics has implemented processes and internal controls for the following areas addressed in this audit report:*

- *Development of a deficit reduction plan*
- *Fundraising activities*
- *Accounting for Enhancement and Agency funds*
- *Cash advances and P-Card transactions*
- *Monitoring of courtesy cars*

The table presents NCAA tickets and lodging costs for the NCAA Final Four tournament from 2011-2017.

### **Events Management Parking Collection and Payroll Processing**

#### **Parking Fee Collections**

The Athletics department, through its Events Management division, charges parking fees for Athletics and special event activities.

Cash collections from four of seven events tested were not deposited in a timely manner. In addition, current processes do not segregate duties for the reconciliation and deposit of cash receipts.

#### **Payroll Processing**

It is common practice for Events Management to pay its part-time and on-call employees the following pay period if they work an event on Thursday or Friday of the pay period.

### **CONCLUSION**

The UNM Athletics Department does not always document or follow procedures for key operational processes to ensure it operates in an effective and efficient manner, and that it complies with UNM policies and procedures and State laws.

During the audit, Internal Audit noted findings of internal control deficiencies in business processes, account reconciliation, financial reporting, and non-compliance with UNM policies and procedures and State laws.

- *Contractual agreement amendment with Learfield Communications*
- *Pit suites and club seats sale and collection processes*
- *Purchase and distribution of NCAA and MWC tickets*
- *Improved payroll processes to prevent overpayments*

*Internal Audit will conduct a follow-up audit for selected areas to determine if implemented processes and internal controls are followed.*

The following is a summary of recommendations made in the report.

1. The Athletics Chief Financial Officer should:
  - a. Develop and implement a comprehensive business operations manual that outlines policies and procedures for specific business functions and consider adding resources to the business office, such as an additional full-time employee.
  - b. Perform account reconciliations on a regular basis throughout the year. Revenue accruals should be adjusted on a quarterly basis to recognize actual revenues earned for the period.
  - c. Amortize the \$500,000 additional investment received from Levy Restaurants over the remaining term of the contract.
  - d. Record funds intended for specific purposes and their corresponding expenses in their own index.
2. The Athletics Chief Financial Officer should conduct a thorough review of expenses throughout the year to ensure expenses, by budgeted line item, are within budget. Budgeted expenses should be adjusted at least quarterly to reflect actual revenues.
3. The Director for Intercollegiate Athletics should review revenues and expenses quarterly to ensure the approved deficit reduction plan is implemented.



4. The Director of Intercollegiate Athletics should consult with the University of New Mexico Board of Regents and University Counsel to revise and update the May 17, 2015 Memorandum of Agreement between the Board of Regents, UNM Foundation, and the UNM Lobo Club to clearly define roles and responsibilities of all parties in the agreement.
5. The Athletics Chief Financial Officer should ensure that sports enhancement fundraising and donor cultivation activity is charged to the enhancement funds within Lobo Club.
6. The Athletics Chief Financial Officer should develop formal fund establishment documentation for the Agency fund that outlines the purpose and use of the fund.
7. The Athletics Chief Financial Officer should complete a thorough assessment of financial reporting in the Banner Accounting System and determine which transactions are not being recorded correctly by Athletics program.
8. The Athletics Chief Financial Officer should ensure P-Card reviewers are conducting thorough reviews of P-Card activity to ensure P-Card transactions are recorded to the appropriate expense account.
9. The Athletics Chief Financial Officer should ensure that supporting documentation submitted for cash advances clearly supports



the business purpose, and identifies how cash advance needs are calculated.

10. The Athletics Chief Financial Officer should require all Athletics P-Cardholders to take the Cash Management training and enforce cash management policies and procedures requiring timely deposit of excess cash not used from cash advances.
11. The Athletics department should have sufficient Chrome River reviewers and approvers
12. The Vice President for Human Resources should: address identified payroll weaknesses; make sure extra compensation payments are not duplicated in the future; and, review the data entry process for Non-Standard Payments to avoid overpayments.

The Senior Associate Athletics Director for Administration should: ensure that Non-Standard Pay (NSP) forms accurately reflect contract terms; provide the Payroll Department copies of both the NSP forms and the coaches' contracts, including all addendums; and, monitor payments to coaches for three (3) months after contracts are initially executed, changed, or renegotiated.

13. The Director of Intercollegiate Athletics should continue strengthening internal controls to ensure the courtesy car program



complies with IRS requirements, and provides overall benefit to the Athletics department.

14. Contracts entered into by the Athletics department should be closely monitored to ensure compliance with provisions agreed between Athletics and the Contractor. The Director for Intercollegiate Athletics should:

- a. Work with UNM Legal Counsel and Learfield Communications to determine a path forward to payment from Lobo Sports Properties, which may take the form of an amended or new contract.
- b. Work with Learfield Communications and Pepsi to ensure that credits due Learfield pursuant to the contact are properly transacted.

15. The Director for Intercollegiate Athletics should:

- a. Ensure all Athletics contracts are reviewed by a designated Contract Review Officer.
- b. Ensure contracts/agreements are not entered by an Athletics employee who is not authorized to enter contracts/agreements.

16. Strong internal controls should be in place for expenses charged to endowed funds to ensure compliance with donor intent. Financial awards



disbursed from endowed funds should be a separate process from other financial awards. The Athletics Chief Financial Officer should:

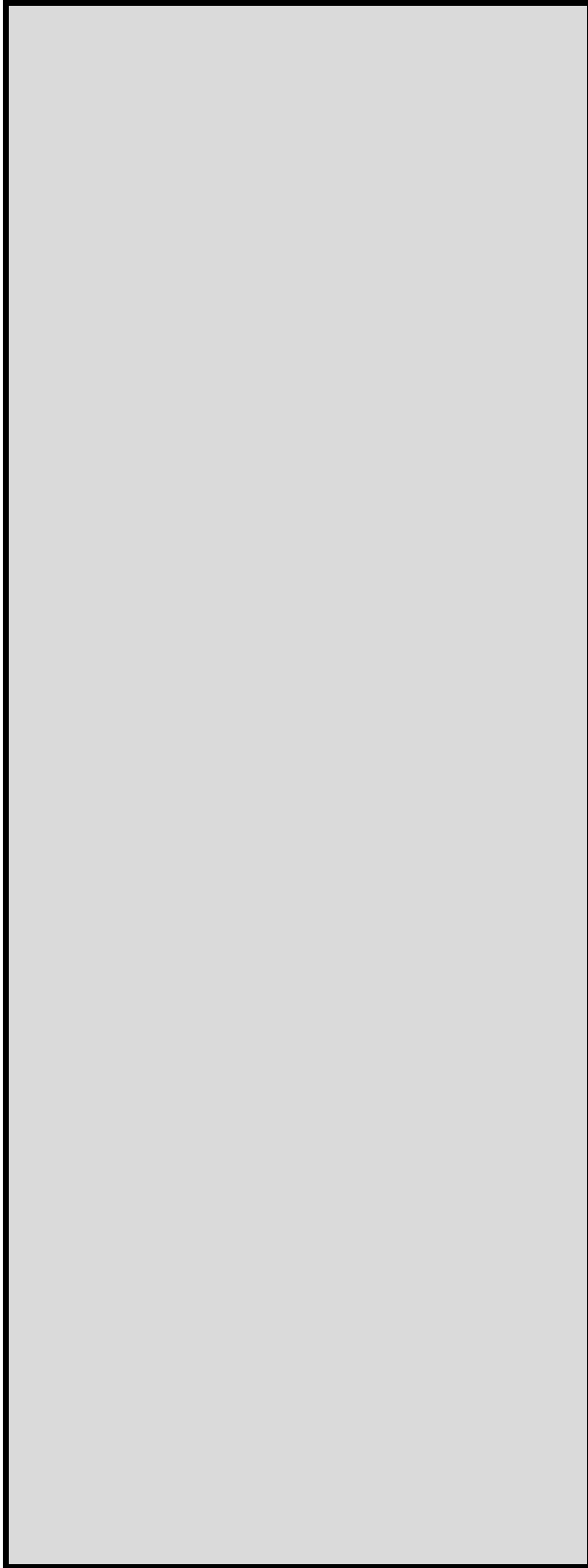
- a. Develop a formal process for the awarding and disbursement of financial awards from endowment funds.
- b. Implement a scholarship committee.
- c. Perform a detailed review of disbursements from endowed funds to ensure activity charged to endowments are in compliance with donor intent.
- d. Reimburse endowments that were incorrectly charged for disbursements that did not meet donor restrictions.

17. The Interim Executive Director of the Lobo Club should:

- a. Enforce implemented sales and collection procedures for Pit Suite and Club Seats.
- b. Work with UNM's Legal Counsel and/or the Director of Intercollegiate Athletics to develop a formal agreement that clearly defines the roles and responsibilities pertaining to UNM and the Lobo Club for the sale and collection of Pit Suites and Club Seats.

18. The Director of Intercollegiate Athletics should require NCAA and MWC tournament tickets to be purchased through the Lobo Club,





which may then sell or distribute tickets as it deems necessary.

19. The Assistant Athletics Director for Event should:

- a. Ensure that cash deposits from parking fee collections are made by the next working day.
- b. Separate cash reconciliation and deposit duties.

20. The Director of Intercollegiate Athletics should implement processes to ensure compliance with the Department of Labor Fair Labor Standards Act for payroll process of part-time and on-call Events Management employees.

# INTRODUCTION

## BACKGROUND

The University of New Mexico Athletic Department (Department) is a department of the University of New Mexico (University) under the control of the Board of Regents of the University, which administers the Intercollegiate Athletic Programs. Athletics offers 10 men’s and 12 women’s sports programs, committed to student athlete success and competitive excellence by creating an inclusive environment through recruiting, developing, and retaining quality people, providing a great fan experience, inspiring community engagement, and serving as a source of pride for New Mexico.

Funding for UNM Athletics is primarily generated from unrestricted general athletics activities and public service sources. General activities revenues are mostly generated from ticket sales, membership and fees, and fundraising, while Public Service funding is generated by non-endowed gifts donated to Athletics’ programs. Total revenues generated from these sources make up 93.34% of Athletics’ total revenue of approximately \$39.4 million during FY 2017.

Athletics also receives restricted funding through donations and contributions collected by the Lobo Club, realized and unrealized gains from endowment investments, and Plant funds. Athletics received approximately \$1.6 million in restricted funds during FY 2017. Revenues by funding source and related expenses for FY 2017 are presented below.

FY 2017 Financial Analysis, by Funding Source						
	Revenues	Expenses	Revenues Over/(Under) Expenses	Reserves, beginning of year	Adjustments <sup>1</sup>	Reserves, end of year
<b>Unrestricted</b>						
Athletics Activities	\$ 34,030,226	\$ 34,401,803	\$ (371,577)	\$ (4,342,423)	\$ -	\$ (4,714,000)
Instruction and General	699,875	663,004	36,871	(3,269)	-	33,602
Other	93,904	95,018	\$ (1,114)	16,544	-	15,430
Subtotal	<u>\$ 34,824,005</u>	<u>\$ 35,159,825</u>	<u>\$ (335,820)</u>	<u>\$ (4,329,148)</u>	<u>\$ -</u>	<u>\$ (4,664,968)</u>
<b>Unrestricted, designated</b>						
Public Service	2,712,357	2,314,464	\$ 397,893	1,937,537	-	2,335,430
Endowed Spending	271,913	316,013	(44,100)	320,557	-	276,457
Subtotal	<u>\$ 2,984,270</u>	<u>\$ 2,630,477</u>	<u>\$ 353,793</u>	<u>\$ 2,258,094</u>	<u>\$ -</u>	<u>\$ 2,611,887</u>
<b>Total Unrestricted</b>	<b><u>\$ 37,808,275</u></b>	<b><u>\$ 37,790,302</u></b>	<b><u>\$ 17,973</u></b>	<b><u>\$ (2,071,054)</u></b>	<b><u>\$ -</u></b>	<b><u>\$ (2,053,081)</u></b>
<b>Restricted</b>						
Endowments	\$ 481,061	\$ 224,397	\$ 256,664	\$ -	\$ (256,664)	\$ -
Agency (Lobo Club)	341,476	94,195	247,281	2,980,068	-	3,227,349
Unexpended Plant	734,047	622,558	111,489	8,508	-	119,997
<b>Total Restricted</b>	<b><u>\$ 1,556,584</u></b>	<b><u>\$ 941,150</u></b>	<b><u>\$ 615,434</u></b>	<b><u>\$ 2,988,576</u></b>	<b><u>\$ (256,664)</u></b>	<b><u>\$ 3,347,346</u></b>
<b>Grand Total</b>	<b><u>\$ 39,364,859</u></b>	<b><u>\$ 38,731,452</u></b>	<b><u>\$ 633,407</u></b>	<b><u>\$ 917,522</u></b>	<b><u>\$ (256,664)</u></b>	<b><u>\$ 1,294,265</u></b>

Source: Banner Accounting System

<sup>1</sup> Reserve adjustments represent adjustments to eliminate net revenues/loss related to restricted True and Quasi Endowments. Net revenues from these restricted funds are not closed to unrestricted reserves in Banner and must be eliminated for reserves recorded in Banner to roll from year to year.

On May 31, 2017, the New Mexico Office of the State Auditor (OSA) formally designated the University of New Mexico for a special audit. The purpose of the engagement was to address concerns regarding specific Athletic Department transactions, payments and compensation to specified individuals, and certain transactions between component units.

The UNM Internal Audit department also conducted two investigations that were initiated by management requests. The first was a Scotland Golf Tour fundraising event that took place from June 19, 2015 through June 25, 2015, and was primarily funded by Athletics' unrestricted funds. The second investigation was for payroll overpayments made to head coaches for men's basketball, baseball, and soccer. These Internal Audit formal investigation memorandums were provided to, and incorporated into, the OSA's special audit report. The final investigation memorandums were finalized August 16, 2017 (Coaches Overpayments) and August 18, 2017 (Scotland Golf Tour), and are attached as [Appendix I](#) and [Appendix II](#).

The Athletics department has implemented processes and internal controls for areas addressed in this audit report including: fundraising, enhancement funds, cash advances, courtesy cars, and the sale and collection of Pit Suite and Club Seats.

## **PURPOSE AND OBJECTIVES**

The audit was selected as part of the Internal Audit annual audit plan. The purpose of our audit was to review the business processes, perform a financial analysis, determine whether adequate internal controls are in place, and determine if Athletics complies with UNM policies and procedures and state law.

The objectives of this audit were to: perform a financial analysis of unrestricted and restricted revenues, expenses, and reserves, by funding source and by Athletics program; and, to evaluate and/or test the following Athletics processes and transactions:

- Cash disbursements, including accounts payable and purchasing, P-card, cash advances, prepaid debit cards, payroll and benefits, and employee reimbursements
- Contracts and agreements
- Endowed funds
- NCAA and Mountain West Conference Tournament tickets
- Events Management parking collection and payroll processing

The audit of Athletics Administration was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing established by the Institute of Internal Auditors.

## SCOPE AND PROCEDURES PERFORMED

Our audit focused on the business operations and financial transactions for FYs 2016 and 2017. Procedures performed are as follows:

- **Interviews:** In order to gain an understanding of processes and controls, Internal Audit read written policies and procedures and interviewed Athletics management and staff.
- **Financial Analysis:** Internal Audit performed a financial analysis of unrestricted and restricted revenues, expenses, and reserves, by funding source and by Athletics program.
- **Transaction Sample Selection and Compliance Testing:** To test internal controls and compliance with UNM policies and procedures for purchasing and accounts payable, P-Card, cash advances, payroll, and employee reimbursements, and cash receipts from parking fees, Internal Audit selected samples of transactions occurring during FYs 2016 and 2017. Compliance test work was also performed on a sample basis for endowment spending distribution disbursements.
- **Contract and Agreements:** Internal Audit reviewed significant contracts and agreements and performed test work to determine compliance with key provisions.
- **NCAA and MWC Tournament Tickets:** Internal Audit determined the number of tickets purchased, distribution of tickets, and compliance with the New Mexico Constitution Anti-Donation Clause.

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## OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

### BUSINESS PROCESSES

#### Comprehensive Business Manual

UNM Athletics adheres to University policies and procedures and has established internal controls in place. However, established internal controls are not always followed, resulting in inaccurate reporting of financial transactions and non-compliance with University policies and procedures.

A written comprehensive business manual is an important tool to provide training and also guidance during employee turnover. Athletics does not have a comprehensive business operations manual that covers the key operational processes. The processes that lack documentation include, but are not limited to: journal vouchers, accounts payable, purchasing card usage, cashiering operations, payroll, financial award processes, ensuring compliance with endowment restrictions, fundraising, etc. This has resulted in Athletics conducting financial and operational activities in an informal manner, increasing the risk of inaccurate financial reporting, unallowable activities and transactions, lack of supporting documentation for financial transactions, etc.

#### Account Reconciliation

The Revenue Recognition principle indicate that revenues are recognized in the period they are realized or realizable, and are earned, no matter when cash is received.

Strong internal controls for accurate financial reporting include timely reconciliation of accounts. It is common practice for Athletics to reconcile certain accounts at fiscal year-end, instead of monthly. Certain revenue accounts are not monitored or reconciled throughout the year, and are adjusted to actual revenues at year-end. Original budgeted expenses are based on projected revenues and accruals, and are not closely monitored or adjusted throughout the year to reflect projected revenue shortfalls. This increases the likelihood of over-expanded budgets, misstatement of revenues for financial reporting, and year-end deficits.

Adjusting journal vouchers were required to be posted by Unrestricted Accounting to true up Athletics receivable balances, which were misstated due to incorrect revenue accruals. In one instance, Athletics recorded revenues in FY 2017 for a portion of a capital investment of \$500,000, received for an amended Athletics Food Concession and Catering Contract with Levy Restaurants that was effective for FY 2018. The amendment was signed by Levy Premium Food Services Limited Partnership on August 8, 2017 and \$500,000 payment was received on August 11, 2017. Furthermore, the contract agreement states, *“The additional investment shall be amortized on a straight-line basis, with amortization commencing on the date such investment amount is made and continuing to be amortized through the end of the Term.”* The cash payment of \$500,000 was fully recognized in FYs 2017 and 2018, instead of being amortized as required by the amended agreement. This resulted in an over-accrual of revenue of \$250,000 in FY 2017, and an over-accrual of \$178,571.43 in FY 2018. The amount of \$71,428.57 should be amortized each year from July 1, 2017 through June 30, 2024, which is the remaining term of the contract.

In addition, funds received for specific purposes are not always recorded in a separate index to allow adequate tracking of corresponding expenses from those funds. This can make it difficult for management to provide assurance that such funds are expended as intended.

**Recommendation 1:**

The Athletics Chief Financial Officer should:

- a.) Develop and implement a comprehensive business operations manual that outlines policies and procedures for specific business functions, including, but not limited to: journal vouchers, accounts payable, purchasing, cashiering, payroll, financial award processes, compliance with endowment restrictions, etc. The Chief Financial Officer should also consider adding resources to the business office, such as an additional full-time employee, to strengthen internal controls within the accounting function.
- b.) Perform account reconciliations on a regular basis throughout the year. Revenue accruals should be adjusted on a quarterly basis to recognize actual revenues earned for the period. Budgeted expenses should also be closely monitored on a regular basis and adjusted to reflect actual revenues generated. This will decrease the risk of inaccurate revenue accruals, over-expended budgets, and year-end deficits.
- c.) Amortize the \$500,000 additional investment received from Levy Restaurants over the remaining term of the contract.
- d.) Record funds intended for specific purposes and their corresponding expenses in their own index.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<p><b>Corrective Action Planned:</b></p> <p><i>a.) A comprehensive business operations manual detailing policies and procedures for specific business functions, including, but not limited to: journal vouchers, accounts payable, purchasing, cashiering, payroll, financial award processes, compliance with endowment restrictions, etc., will be developed and implemented. In addition, a comprehensive assessment of the business operations within Athletics will be completed in order for a determination to be made as to the most efficient use of the current resources within the office and whether additional resources are necessary in order for the best practices outlined in the comprehensive business operations manual to be implemented.</i></p>

- b.) Moving forward, account reconciliations will be performed on a regular basis throughout the year. In addition, revenue accruals will be adjusted on a quarterly basis to recognize actual revenues earned for the period. Further, budgeted expenses will also closely monitored on a regular basis and adjusted to reflect actual revenues generated, thereby addressing and minimizing the risk of inaccurate revenue accruals, over-expended budgets, and year-end deficits.*
- c.) Moving forward, the additional investments received from Levy Restaurants will be amortized over the term of the contract.*
- d.) Moving forward, funds intended for a specific purpose (as well as the corresponding expenses) will be recorded in its own index.*

## **FINANCIAL ANALYSIS**

During FY 2017, the Athletics department generated approximately \$37.8 million in revenues through unrestricted funding sources and approximately \$1.6 million, net of transfers, through restricted funding sources. Unrestricted revenues are primarily generated through “General Athletic Activities” and Instructional and General (I&G) funding, and may be used for any Athletic activity. Athletics reports a deficit of approximately \$4.7 million for these unrestricted funding sources.

Athletics also generates other unrestricted revenues, which are “designated” for specific purposes. Such funds are received by endowed and non-endowed gifts (public service), which are intended for purposes specified by the donor. Athletics received approximately \$3.0 million in these unrestricted funds and had approximately \$2.6 million in reserves at June 30, 2017.

Revenues by funding source and related expenses for FY 2017 are presented below.

FY 2017 Financial Analysis, by Funding Source						
	Revenues	Expenses	Revenues Over/(Under) Expenses	Reserves, beginning of year	Adjustments <sup>1</sup>	Reserves, end of year
<b>Unrestricted</b>						
Athletics Activities	\$ 34,030,226	\$ 34,401,803	\$ (371,577)	\$ (4,342,423)	\$ -	\$ (4,714,000)
Instruction and General	699,875	663,004	36,871	(3,269)	-	33,602
Other	93,904	95,018	\$ (1,114)	16,544	-	15,430
Subtotal	\$ 34,824,005	\$ 35,159,825	\$ (335,820)	\$ (4,329,148)	\$ -	\$ (4,664,968)
<b>Unrestricted, designated</b>						
Public Service	2,712,357	2,314,464	\$ 397,893	1,937,537	-	2,335,430
Endowed Spending	271,913	316,013	(44,100)	320,557	-	276,457
Subtotal	\$ 2,984,270	\$ 2,630,477	\$ 353,793	\$ 2,258,094	\$ -	\$ 2,611,887
<b>Total Unrestricted</b>	<b>\$ 37,808,275</b>	<b>\$ 37,790,302</b>	<b>\$ 17,973</b>	<b>\$ (2,071,054)</b>	<b>\$ -</b>	<b>\$ (2,053,081)</b>
<b>Restricted</b>						
Endowments	\$ 481,061	\$ 224,397	\$ 256,664	\$ -	\$ (256,664)	\$ -
Agency (Lobo Club)	341,476	94,195	247,281	2,980,068	-	3,227,349
Unexpended Plant	734,047	622,558	111,489	8,508	-	119,997
<b>Total Restricted</b>	<b>\$ 1,556,584</b>	<b>\$ 941,150</b>	<b>\$ 615,434</b>	<b>\$ 2,988,576</b>	<b>\$ (256,664)</b>	<b>\$ 3,347,346</b>
<b>Grand Total</b>	<b>\$ 39,364,859</b>	<b>\$ 38,731,452</b>	<b>\$ 633,407</b>	<b>\$ 917,522</b>	<b>\$ (256,664)</b>	<b>\$ 1,294,265</b>

Source: Banner Accounting System

<sup>1</sup> Reserve adjustments represent adjustments to eliminate net revenues/loss related to restricted True and Quasi Endowments. Net revenues from these restricted funds are not closed to unrestricted reserves in Banner and must be eliminated for reserves recorded in Banner to roll from year to year.

### **Unrestricted Funding and Expenses**

The majority of Athletics' revenues are from unrestricted funding sources, which make up 96%, or \$37.8 million of \$39.4 million, of its total funding. Unrestricted revenue during FY 2017 was primarily received from:

- Memberships and fees – 28.6%
- Ticket sales – 21.1%
- Non-endowed gifts and endowment spending distribution – 13.6%
- Advertising – 13.2%

Together these revenues make up \$28.8 million of Athletics' total revenues during FY 2017.

Athletics' expenses primarily consisted of the following during FY 2017:

- Salaries and Benefits - 40.6%
- Scholarships and awards - 14.7%
- Travel - 10.01%
- Services and Fees – 9.9%



Together these expenses make up \$28.4 million of Athletics total expenses for FY 2017.

Unrestricted revenues and expenses are primarily recorded as Athletics "General Activities". Unrestricted revenues and expenses by funding source for FY 2017 are presented below.

<b>Unrestricted Funds - FY 2017</b>					
	/-----Unrestricted-----\ Athletics      I&G and Activities      Other		/-Unrestricted, designated-\ Public      Endowed Service      Spending		Total
<b>Revenues</b>					
Memberships and Fees	\$ 10,769,318	\$ 15,017	\$ -	\$ -	\$ 10,784,335
Ticket Sales and Other	7,870,118	2,606	72,855	-	7,945,579
Endowment and Gifts	12,812	-	4,652,927	454,766	5,120,505
Advertising	4,960,500	-	-	-	4,960,500
State Appropriations	2,643,800	-	-	-	2,643,800
Fundraising	2,561,594	-	-	-	2,561,594
Rental and Events	1,490,235	-	199,930	-	1,690,165
I&G	-	423,399	-	-	423,399
Miscellaneous	2,621,462	145,607	745,734	-	3,512,803
Transfers and Allocations	1,100,387	207,150	(2,959,089)	(182,853)	(1,834,405)
<b>Total Revenues</b>	<b>\$ 34,030,226</b>	<b>\$ 793,779</b>	<b>\$ 2,712,357</b>	<b>\$ 271,913</b>	<b>\$ 37,808,275</b>
<b>Expenses</b>					
Salary and Benefits	\$ 14,745,277	\$ 542,975	\$ 38,990	\$ 53	\$ 15,327,295
Scholarships and Awards	5,287,661	-	45,897	210,688	5,544,246
Travel	3,107,724	-	648,368	25,000	3,781,092
Services and Fees	3,559,009	33,537	76,901	39,870	3,709,317
Professional Services	2,101,097	43,754	64,675	22,940	2,232,466
Equipment and Supplies	622,616	22,369	249,500	13,419	907,904
Recruiting	673,689	-	24,433	1,470	699,592
Taxes	650,221	6,808	21,459	894	679,382
Meals	652,456	-	68,705	-	721,161
Repairs and Maintenance	148,383	83,016	21,065	1,679	254,143
Dues	501,667	520	16,067	-	518,254
Communication	106,118	11,248	16,382	-	133,748
Other	2,245,885	13,795	1,022,022	-	3,281,702
<b>Total Expenses</b>	<b>\$ 34,401,803</b>	<b>\$ 758,022</b>	<b>\$ 2,314,464</b>	<b>\$ 316,013</b>	<b>\$ 37,790,302</b>
<b>Revenues Over (Under) Expenses</b>	<b>\$ (371,577)</b>	<b>\$ 35,757</b>	<b>\$ 397,893</b>	<b>\$ (44,100)</b>	<b>\$ 17,973</b>
Reserve (Deficit), beginning of year	\$ (4,342,423)	\$ 13,275	\$ 1,937,537	\$ 320,557	\$ (2,071,054)
Reserve (Deficit), end of year	\$ (4,714,000)	\$ 49,032	\$ 2,335,430	\$ 276,457	\$ (2,053,081)

Source: Banner Accounting System

Unrestricted funds carry a net deficit of \$2.1 million at the end of FY 2017, which is due to the deficit in the Athletics Activities fund of \$4.7 million. Although all other unrestricted funding

sources carry a reserve of \$2.7 million at the end of FY 2017, the deficit of \$4.7 million reported in the Athletics Activities fund results in the unrestricted fund's net deficit.

### **Athletic Activities Financial Management**

The unrestricted revenues and expenses recorded as "General Activities" account for over 90% of unrestricted financial activity for Athletics. Therefore, financial management of these funds is critical for the financial health of the Athletics department. The following presents a budget vs. actual analysis of general activities revenues and expenses for FYs 2016-2017.

	General Athletics Activities Fund					
	Budget vs. Actual Analysis - FY's 2016-2017					
	FY 2016			FY 2017		
	Budget	Actual	Over/(Under)	Budget	Actual	Over/(Under)
<b>Revenues</b>						
Memberships and Fees	\$ 8,621,000	\$ 8,934,891	\$ 313,891	\$ 9,309,694	\$ 10,769,317	\$ 1,459,623
Ticket Sales and Other	10,096,160	9,417,098	(679,062)	9,777,160	7,870,118	(1,907,042)
Advertising	5,096,000	5,010,500	(85,500)	5,158,000	4,960,500	(197,500)
State Appropriations	2,835,100	2,835,100	-	2,643,800	2,643,800	-
Miscellaneous	2,995,820	1,789,743	(1,206,077)	3,446,242	2,621,462	(824,780)
Fundraising	3,100,000	2,900,000	(200,000)	3,000,000	2,561,594	(438,406)
Rental and Events	170,000	563,726	393,726	975,000	1,490,236	515,236
Transfers and Allocations	9,897	225,971	216,074	122,322	1,100,387	978,065
Endowments and Gifts	23,000	166,163	143,163	23,000	12,812	(10,188)
Budgeted Use of Reserves	-	-	-	(90,302)	-	90,302
<b>Total Revenues</b>	<b>\$ 32,946,977</b>	<b>\$ 31,843,191</b>	<b>\$ (1,103,786)</b>	<b>\$ 34,364,916</b>	<b>\$ 34,030,226</b>	<b>\$ (334,690)</b>
<b>Expenses</b>						
Labor	\$ 14,205,123	\$ 14,686,661	\$ 481,538	\$ 14,399,979	\$ 14,745,277	\$ 345,298
Scholarships and Awards	4,904,532	5,314,346	409,814	5,263,470	5,287,661	24,191
Services and Fees	2,528,571	2,876,118	347,547	2,916,720	3,559,009	642,289
Travel	2,881,712	3,129,638	247,926	3,167,712	3,107,724	(59,988)
Other	3,397,430	2,015,860	(1,381,570)	3,419,884	2,245,885	(1,173,999)
Professional Services	2,275,356	2,304,380	29,024	2,254,822	2,101,096	(153,726)
Recruiting	696,823	701,079	4,256	696,823	673,689	(23,134)
Meals	391,544	579,432	187,888	396,544	652,456	255,912
Taxes	644,083	612,526	(31,557)	643,983	650,222	6,239
Equipment and Supplies	478,022	626,369	148,347	583,827	622,616	38,789
Dues	412,398	267,808	(144,590)	488,569	501,667	13,098
Repairs and Maintenance	67,750	182,618	114,868	67,750	148,383	80,633
Communication	63,633	130,609	66,976	64,833	106,118	41,285
<b>Total Expenses</b>	<b>\$ 32,946,977</b>	<b>\$ 33,427,447</b>	<b>\$ 480,470</b>	<b>\$ 34,364,916</b>	<b>\$ 34,401,803</b>	<b>\$ 36,887</b>
Revenues over/(under) expenses		\$ (1,584,255)			\$ (371,577)	
Deficit, beginning of year		\$ (2,758,168)			\$ (4,342,423)	
Deficit, end of year		\$ (4,342,423)			\$ (4,714,000)	

Source: Banner Accounting System

During FY 2016, actual revenues were below budget by approximately \$1.1 million, primarily due to ticket sales being \$680K less than projected, and receipt of miscellaneous in-kind revenues of \$500K when \$2 million was projected. Major sports ticket sales including men's basketball, football, and women's basketball were below budget by \$667K, \$489K, and \$157K.

FY 2016 expenses exceeded budgeted amounts in total by \$480K, due to Athletics exceeding budget by over \$100,000 in seven areas. Labor exceeded budgeted amounts by \$481K, financial awards by \$410K, and services and fees by \$348K. These three areas constitute over-budgeted expenses of \$1.2 million. The shortfalls in ticket sales and gift in-kind contributions, combined with over-expended budgets, resulted in a net revenue under expenses of \$1.5 million during FY 2016; the deficit in general athletic activities increased from \$2.8 million to \$4.3 million.

During FY 2017, revenues were below projections by approximately \$335K, which was primarily due to ticket sales and fundraising being significantly less than expected. Although membership and fee revenue exceeded budget by \$1.5 million, once again ticket sales for men's basketball, football, and women's basketball were well under budget by \$971K, \$853K, and \$135K, respectively. In addition, Athletics received \$1.2 million in miscellaneous in-kind gifts, although \$2.1 million was projected.

Athletics nearly stayed within budgeted expenses in total; however, it significantly exceeded budget for services and fees, student salaries, and meals. Over-expended budget in services and fees is primarily due to \$614K in expenses for a professional bull rider event that was not budgeted for in Banner.

Athletics has experienced significant shortfalls in budgeted ticket sales and fundraising efforts over the past two years. These shortfalls may be attributable to performance by men's basketball and football. However, the Athletics department is not closely monitoring actual revenues and adjusting budgeted expenses to reflect reductions in available resources. Budgeted expenses such as financial awards, labor, meals, etc. are within management's control, and could be monitored to ensure they do not exceed budget. Although ticket sales have been significantly under budget for three major programs (men's basketball, football, and women's basketball), the expense budgets were not reduced to reflect actual resources available, significantly contributing to expenses exceeding revenues during FYs 2016 and 2017, and the general activities deficit increasing from \$2.8 million to \$4.7 million at the end of this two-year time period.

**Recommendation 2:**

Expenses should be monitored throughout the year to ensure expenses are within budget at year end. The Athletics Chief Financial Officer should conduct a thorough review of expenses throughout the year to ensure expenses, by budgeted line item, are within budget. Budgeted expenses should be adjusted at least quarterly to reflect actual revenues. The Chief Financial Officer should also conduct a cost savings analysis to determine where management-controlled expenses can be reduced.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: All budgets will be closely monitored throughout the year to ensure expenses are within budget at year end. This process will include: (1) a thorough review of expenses throughout the year to ensure expenses, by budgeted line item, are within budget; (2) budgeted expenses will be adjusted at least quarterly to reflect adjustments to actual revenues; and (3) a cost savings analysis will be conducted on a quarterly basis to determine where management-controlled expenses can be reduced.</i>

**Deficit Reduction Plan**

UAP 7000: Budgets and Reserves states, “If departments anticipate a year-end deficit, the department heads must notify their dean or director of the estimated deficit as soon as they are aware of the projected deficit. The dean or director must identify funds to cover the deficit or the department's next fiscal year budget will be reduced by an amount sufficient to cover the prior year's deficit; in the event of a large departmental deficit, a multi-year deficit payoff plan may be implemented with the approval of an executive vice president. The department head must also submit a plan for resolving the causes of the deficit”

Although Athletics reported a deficit of \$4,342,423 at the end of FY 2016, a deficit reduction plan was not developed. Thus, the deficit increased by \$371,577 to \$4,714,000 at the end of FY 2017. Subsequently, a ten-year deficit reduction plan (FY20-FY29) was approved by the UNM Board of Regents.

**Recommendation 3:**

The Director for Intercollegiate Athletics should review revenues and expenses quarterly to ensure the approved deficit reduction plan is implemented.

**Response from the Director for Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Director of Intercollegiate Athletics</i>
<i>Corrective Action Planned: The Athletics Department will work in conjunction with the Office of Planning, Budget and Analysis in implementing the approved deficit reduction plan.</i>

**Fundraising**

UAP 1040: Fundraising, Section 1, General states, “...*Individual units may engage in fundraising to further the University’s mission. Fundraising by units should be coordinated with the UNM Foundation and, in the case of academic units, with their development officers.*”

In addition, a Memorandum of Agreement signed on May 17, 2015 between the UNM Board of Regents, UNM Foundation, and UNM Lobo Club states, “*The Lobo Club agrees to provide solicitations, consultation, and other related services consistent with the University’s plans, programs, and policies in efforts to maximize private gifts and donations from various sources for the benefit of University athletics programs. To that end, the Lobo Club shall plan, direct, coordinate, and conduct activities for raising funds from private sources to provide financial support to the University for the following purposes: (a) student athlete scholarships; (b) upgrading University Athletics facilities; and (c) current and long-term budgetary requirements of the athletics department. The Lobo Club will conduct fundraising programs, special events and any other programs initiated by the Vice President of Athletics/Director of Athletics and Lobo Club Board of Directors and approved by both parties to support such purposes.*”

Although fundraising activities should be planned, directed, and coordinated through the UNM Lobo Club, UNM Athletics also conducts fundraising activities using its unrestricted public funds. For example, Athletics conducted a Scotland Golf Tour fundraising event which should have been charged to the UNM Lobo Club; however, the UNM Athletics Department paid for \$63,949 of the total costs of the Event which included:

- Golf packages totaling \$49,134 paid on a UNM P-Card for the Former Vice President for Intercollegiate Athletics, Former Head Basketball Coach, former Senior Associate Athletic Director for Development, and three private donors.
- Roundtrip airfare of \$1,190 from Newark, New Jersey to Edinburgh, Scotland paid on a UNM P-Card for the Former Vice President for Intercollegiate Athletics.
- Transfer of funds to UNM Lobo Club for:

- Reduction in tee times (golfers) from 24 to 16 for \$11,600
- Two unrecoverable unused rooms at The Lodges at Turnberry Resort for \$2,025

Of the 23 participants for the Scotland Golf Tour, the University Athletics department purchased and paid \$8,189 each for one UNM Foundation employee (non-UNM employee), and three non-UNM individuals (Donors). The total costs for four (4) non-UNM individuals for this Golf Tour Event was \$32,756.

In May 2017, the UNM Foundation received an anonymous gift in the amount of \$25,000. The UNM Foundation transferred \$25,000 on May 22, 2017 to the UNM Athletics department, and it was deposited in the same index (925011) used to pay for \$23,567 of the private donors' golf packages for the event. The anonymous donor clarified to the University Foundation that when he gave the \$25,000 gift, he did so wanting to support the development and stewardship efforts of the Athletics department, including the revenue shortfalls of the trip to Scotland.

The N.M. Constitution, Article IX, Section 14 (Anti-Donation Clause) states: "Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation..."

The payment of costs for private individuals from UNM funds may violate the Anti-Donation Clause of the New Mexico Constitution. The Deputy Athletic Director for Internal Operations sent an e-mail to all Athletic areas on December 12, 2017 requiring all fundraising and donor cultivation activities to be paid or reimbursed by the UNM Lobo Club.

**Recommendation 4:**

The Director of Intercollegiate Athletics should consult with the University of New Mexico Board of Regents and University Counsel to revise and update the May 17, 2015 Memorandum of Agreement between the Board of Regents, UNM Foundation, and the UNM Lobo Club to clearly define roles and responsibilities of all parties in the agreement, including which organization will be responsible for paying for fundraising expenses, collections of funds, accounting for funds, reporting structure (line) for staff, etc.

**Response from the Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: August 1, 2018</i>
<i>Assigned to: Director of Intercollegiate Athletics</i>
<i>Corrective Action Planned: Athletics is in the process of developing and executing a Memorandum of Agreement, which will clearly define the roles and responsibilities of the all parties in the agreement.</i>

Public Service - Enhancement Funds

The Athletics Public Service funds consist of non-endowed gift funds. Non-Endowed gifts are not invested on a long-term basis by the Foundation, and the entire amount of the gift may be spent as long as it is in accordance with the donor's intent.

Within the Public Service fund, Athletics has sixteen (16) enhancement indices for the purpose of enhancing the Athletics program for which gifts are received. Enhancement funds primarily generate monies through fundraising events and donor cultivation. The following is the list of enhancement indices, and their revenues, expenses, and reserves for FY 2017:

<b>FY 2017 Public Services Funds (Non-Endowed Gifts)</b>				
<b>Enhancement Funds</b>	<b>Reserves, beginning of year</b>	<b>Revenues</b>	<b>Expenses</b>	<b>Reserves, end of year</b>
Men's Soccer	\$ 199,864	\$ 126,749	\$ 84,297	\$ 242,316
Women's Golf	119,183	33,265	67,902	84,546
Women's Swimming	98,929	31,197	6,007	124,119
Baseball	91,863	248,868	254,544	86,187
Football (1st Team)	86,838	48,805	131,159	4,484
Men's Golf	82,158	112,406	99,317	95,247
Men's Basketball (Sixth Man)	54,382	91,476	126,833	19,026
Ski Team	38,930	137,282	69,005	107,207
Women's Tennis	11,722	20,950	12,161	20,511
Women's Track	10,576	235,346	128,048	117,875
Women's Soccer	5,691	52,695	19,350	39,036
Volleyball	3,610	28,104	27,557	4,156
Women's Basketball	3,403	37,712	11,416	29,699
Spirit Squad	2,734	101,853	90,007	14,580
Men's Tennis	1,864	35,280	21,238	15,906
Softball	(221)	2,100	1,546	333
<b>Sub-Total</b>	<b>\$ 811,525</b>	<b>\$1,344,089</b>	<b>\$1,150,386</b>	<b>\$ 1,005,229</b>
<b>Other Non-Endowed Gift Funds</b>	<b>\$ 1,126,012</b>	<b>\$1,368,268</b>	<b>\$1,164,078</b>	<b>\$ 1,330,202</b>
<b>Total Public Service Funds</b>	<b>\$ 1,937,537</b>	<b>\$2,712,357</b>	<b>\$2,314,464</b>	<b>\$ 2,335,430</b>

Source: Banner Accounting System

Enhancement funds make up approximately 50% of non-endowment gift revenue recorded in the Public Service fund. Enhancement funds and other non-endowed gifts funds recorded in the Public Service funds have reserves of \$2,335,431 at the end of FY 2017. However, reserves in these funds are committed for the enhancement of each sports program receiving the gift.

Although monies recorded in the Sports Enhancement Funds are generated through private support, these funds are part of Athletics unrestricted funds and considered public money. UNM has a memorandum of agreement with the Lobo Club that explains that funds transferred to UNM become public funds, which makes them subject to the New Mexico Constitution's Anti-Donation Clause.

Internal Audit tested FY 2017 disbursements from the Sports Enhancement funds and determined the majority of the activity is for the purchase of equipment, uniforms, facility improvements, competition/event fees, etc. However, four (4) disbursements tested were related to two golf tournament fundraising events, one ski program fundraising event, and one meal for donor cultivation. Fundraising events typically consist of event fees, food, and beverages for



UNM employees and donors. Such fundraising activities are an inappropriate use of public funds and may violate the Anti-Donation Clause of the New Mexico Constitution.

On September 1, 2017, the enhancement funds were designated to the Lobo Club. All sports enhancement activities including fundraising and donor cultivation are now conducted through the enhancement funds at the Lobo Club. No funds have been transferred from the Lobo Club accounts to Banner accounts as of March 31, 2018.

The enhancement fund accounts recorded in the UNM Banner Accounting system are no longer used to record Athletics financial activity. However, these accounts still have reserves that have not been fully expended.

**Recommendation 5:**

The Athletics Chief Financial Officer should ensure that sports enhancement fundraising and donor cultivation activity is charged to the enhancement funds within Lobo Club. At the conclusion of fundraising events, the net profits raised may be transferred from the Lobo Club to Athletics unrestricted accounts for public use.

Reserves remaining in the Sports Enhancement Funds recorded in Banner should be expended on goods or services that is not a fundraising or donor cultivation activity.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: All sports enhancement fundraising and donor cultivation activity is currently charged to the enhancement funds within Lobo Club. Following the conclusion of each fundraising event, the net profits raised will only be transferred from the Lobo Club to Athletics for public use as funds are needed. Otherwise, monies generated from fundraising events will remain at the Lobo Club.</i>

**Restricted Funding**

Restricted funding primarily consists of donations and contributions collected by the Lobo Club, and subsequently transferred to an Athletics Agency fund. This Agency fund is intended to act as a holding account for funds used for scholarships, Pit Renovation debt services payments, and sports enhancement funds. The following presents Athletics restricted funding for FY 2017.

UNM Athletics Restricted Funds - FY 2017				
	Agency	Endowments	Plant	Total
<b>Revenues</b>				
Transfers from Lobo Club	\$ 2,813,385	\$ -	\$ -	\$ 2,813,385
Transfers to Athletics Unrestricted	\$ (4,881,269)	\$ -	\$ -	(4,881,269)
Unrealized Gains on Investments	-	498,308	-	498,308
Gifts	2,360,905	-	-	2,360,905
STB Revenue	-	-	505,547	505,547
Miscellaneous	47,955	-	-	47,955
Other Transfers and Allocations	500	(17,247)	228,500	211,753
Total Revenues	\$ 341,476	\$ 481,061	\$ 734,047	\$ 1,556,584
<b>Expenses</b>				
Services and Fees	\$ 58,295	\$ 222,684	\$ 9,828	\$ 290,807
Equipment and Supplies	2,508	-	401,878	404,386
Other	33,392	1,713	210,852	245,957
Total Expenses	\$ 94,195	\$ 224,397	\$ 622,558	\$ 941,150
Revenues over/(under) expenses	\$ 247,281	\$ 256,664	\$ 111,489	\$ 615,434
Reserves, beginning of year	\$ 2,980,068	\$ -	\$ 8,508	\$ 2,988,576
Adjustments <sup>1</sup>	\$ -	\$ (256,664)	\$ -	\$ (256,664)
Reserves, end of year	\$ 3,227,349	\$ -	\$ 119,997	\$ 3,347,346

Source: Banner Accounting System

<sup>1</sup> Reserve adjustments represent adjustments to eliminate net revenues/loss related to restricted True and Quasi Endowments. Net revenues from these restricted funds are not closed to unrestricted reserves in Banner and must be eliminated for reserves recorded in Banner to roll from year to year.

### Agency Fund

Private funds raised by the Lobo Club are drawn down from the Lobo Club private bank account each month and transferred to UNM's Agency fund, while leaving approximately \$50,000 in the Lobo club account for operating expenses. Approximately \$2.8 million were transferred from the Lobo Club to the Agency fund during FY 2017.

The Agency fund is also utilized to record gifts to UNM Athletics received through credit card payments. Athletics received \$2.3 million in gifts by credit card, which were recorded directly to the Agency fund accounts.

At the beginning of each year, Athletics makes a financial commitment from the Agency fund to Unrestricted Athletics accounts for funding financial awards. The Agency fund transferred \$2,861,594 on September 29, 2016 for its FY 2016 commitment. In addition to this transfer, the following were also transferred to Athletics unrestricted funds.

- Pit Renovation Debt Service: \$891,152
- Sports Enhancement Funds: \$750,973
- Other: \$377,550

The Agency fund had a reserve balance of \$3,227,349 at June 30, 2017. However, these reserves are committed for the FY 2017 transfer of \$2.6 million for financial awards and deferred gifts received for the 2017-2018 Athletic year. These reserves are not available for unrestricted use.

Although the Agency fund has existed for many years, there is no written documentation for the establishment, intended purpose, or procedures for the use of the Agency Fund. Although the Agency fund is primarily used as a holding account for scholarship funding, it is unclear why it is used for activity related to sports enhancement funds, Pit Renovation debt service, and various “Other” activity, such as transfers for baseball and football renovations, gifts and non-gift revenue, etc.

### **Recommendation 6:**

The Athletics Chief Financial Officer should develop formal fund establishment documentation for the Agency fund that outlines the purpose and use of the fund. In addition, written procedures should be developed that clearly explain and support the financial activity that flows between the Lobo Club, Agency fund, and unrestricted athletics accounts.

### **Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: Formal fund establishment documentation for the Agency fund outlining the purpose and use of the fund will be developed and implemented. In addition, written procedures will be developed to clearly explain and support the financial activity that flows between the Lobo Club, Agency fund, and unrestricted athletics accounts.</i>

### **Financial Reporting by Athletics Program**

Organized financial reporting structure in the Banner Accounting System is critical for allowing management to track and monitor financial activity by Athletic program. Adequate financial reporting in Banner should allow Athletics to run financial reports that present a full picture of budget and actual revenues and expenses by sports program. The current Athletics financial reporting structure in Banner is set up in a manner that the majority of financial activity is recorded as “General Activities” within the Level 6 Organization in Banner. Approximately 76% of unrestricted revenues and 74% of expenses were recorded to this organizational area during FY 2017.

Internal Audit performed a financial analysis of the financial reporting structure set up in Banner for Athletics and noted significant misreporting, by Athletics program, in the following key accounts.

#### Revenues

- Fundraising: Fundraising revenues are completely recorded in “General Activities.” This does not allow Banner reporting for fundraising revenues generated by each sports program.

#### Expenses

- Labor: Approximately 91% of Athletics’ salaries and benefits are recorded as “General Activities.” Head and Assistant Coach’s salaries for sports programs such as men’s and women’s basketball, football, baseball, etc. are not recorded in accounts within their sports program.
- Scholarships and Awards: Approximately 95% of financial awards disbursed to student athletes are primarily recorded as a “General Activity,” instead of within each sports program for which the financial award was disbursed.

Without the ability to generate financial reports in Banner that reflect actual financial activity for each Athletics program, it is difficult for management to monitor and assess financial performance of each Athletics program. For example, salaries and benefits make up \$15.3 million, or 40.5% of total expenses, while scholarships and awards make up another \$5.5 million, or 14.7%, of total expenses.

The ability to generate a financial report in Banner that captures payroll costs by Athletics program is not available. Thus, the full picture of financial activity for each Athletics program is not available for review and analysis. In addition, Financial Aid has the ability to generate award and scholarship disbursement reports through the financial aid module in Banner, but they do not correspond to financial aid expenses recorded in the operating ledger.

Although these are significant expense accounts, management does not have the ability to generate operating ledger reports in Banner to review and perform an assessment of these accounts by Athletics program. As a result, Management’s ability to analyze and control the financial performance of the Athletics department as a whole is significantly affected. The following is a presentation of the current set-up for financial reporting, by Athletics program, within the Banner Accounting System.

## OBSERVATIONS, RECOMMENDATIONS AND RESPONSES

FY 2017 Revenues by Athletics Programs (Unrestricted Funds)									
Athletic Director									
(General									
Activities)									
	Football	Men's Basketball	Men's Sports	Women's Sports	Athletics Events <sup>1</sup>	Other <sup>2</sup>	Total		
<b>Revenues</b>									
Memberships and Fees	\$ 10,782,309	\$ -	\$ -	\$ -	\$ 2,023	\$ -	\$ 10,784,332		
Ticket Sales and Other	1,882,392	625	5,000	(206)	29,147	6,028,621	7,945,579		
Endowments and Gifts	4,084,043	351,705	67,262	440,684	341,557	-	5,321,645		
Advertising	4,960,500	-	-	-	-	-	4,960,500		
Miscellaneous	2,908,876	(187,379)	7,146	31,125	136,999	343,155	3,312,803		
State Appropriations	2,643,800	-	-	-	-	-	2,643,800		
Fundraising	2,561,594	-	-	-	-	-	2,561,594		
Rental and Events	118,024	175,000	21,996	113,298	68,448	1,178,562	1,690,066		
I&G	-	-	-	-	-	423,399	423,399		
Transfers and Allocations	208,490	1,582,538	603,688	559,839	1,634,741	(6,265,068)	(1,835,444)		
Change in Reserves	(1,509,975)	206,941	143,133	3,628	53,799	1,087,900	14,574		
Total Revenues	\$ 28,640,053	\$ 2,129,431	\$ 848,225	\$ 1,148,369	\$ 2,264,691	\$ 2,798,592	\$ (21,086)	\$ 37,808,275	
<b>Expenses</b>									
<b>Labor</b>									
Staff	\$ 10,236,796	\$ -	\$ -	\$ 9,844	\$ 1,928	\$ 715,927	\$ -	\$ 10,964,495	
Student	532,991	73,001	6,677	19,210	26,727	396,186	14,129	1,068,920	
Faculty	5,000	-	-	-	-	-	-	5,000	
Benefits	3,136,260	31,973	4	3,918	12,005	103,240	1,480	3,288,880	
<b>Non-Labor</b>									
Scholarships and Awards	\$ 5,288,759	\$ 39,541	\$ 25,122	\$ 34,447	\$ 51,842	\$ 89,903	\$ 14,631	\$ 5,544,246	
Travel	349,303	1,254,237	340,274	538,186	1,073,956	142,511	82,624	3,781,092	
Services and Fees	2,547,108	121,212	36,812	43,880	83,350	866,695	10,260	3,709,317	
Professional Services	912,655	25,473	271	9,052	53,433	1,230,694	887	2,232,465	
Equipment and Supplies	380,796	146,217	24,617	111,092	142,922	100,129	2,131	907,903	
Recruiting	1,835	237,681	146,589	89,265	204,024	20,000	198	699,592	
Taxes	529,357	19,108	6,269	9,532	17,595	96,216	1,306	679,383	
Meals	138,294	287,321	84,366	53,133	94,269	54,625	9,152	721,161	
Repairs and Maintenance	125,705	1,771	518	193	9,489	116,466	-	254,143	
Dues	466,525	2,024	857	25,658	17,704	1,085	4,400	518,254	
Communication	46,033	11,379	5,355	19,296	9,992	36,493	5,200	133,749	
Other	3,080,577	112,984	74,487	103,361	166,268	(273,964)	17,990	3,281,702	
Total Expenses	\$ 27,777,994	\$ 2,363,922	\$ 752,220	\$ 1,070,067	\$ 1,965,504	\$ 3,696,207	\$ 164,388	\$ 37,790,302	
Revenues Over (Under) Expe	\$ 862,059	\$ (234,491)	\$ 96,005	\$ 78,302	\$ 299,187	\$ (897,616)	\$ (185,474)	\$ 17,973	
Reserves, beginning of year	\$ (1,848,038)	\$ (100,478)	\$ (80,091)	\$ 431,781	\$ 313,193	\$ (1,080,375)	\$ 292,953	\$ (2,071,054)	
Reserves, end of year	\$ (985,979)	\$ (334,969)	\$ 15,914	\$ 510,083	\$ 612,381	\$ (1,977,990)	\$ 107,479	\$ (2,053,081)	

Source: Banner Accounting System

<sup>1</sup> Includes Events Management and Athletics Special Events<sup>2</sup> Includes Lobo Club, Letterman's Association, Athletics Sr. Womens Admin, Spirit Squad

**Recommendation 7:**

The Athletics Chief Financial Officer should complete a thorough assessment of financial reporting in the Banner Accounting System and determine which transactions are not being recorded correctly by Athletics program. Athletics accounts should then be set up in Banner that ensure transactions such as fundraising, payroll, and financial awards are recorded in the applicable Athletics program.

Budgeted salaries for Athletics staff should be set up in the Banner index that corresponds to their Athletics program using the “Salary Planner” budget module. This will ensure salary and benefits are budgeted and recorded in the correct Athletics program as they occur.

**Response from the Athletics Fiscal Operations Director:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<p><b>Corrective Action Planned:</b>  <i>A thorough assessment of financial reporting in the Banner Accounting System will be conducted to determine which transactions are not being recorded correctly by Athletics program. Following the completion of this assessment, Athletics accounts will be properly organized in Banner to ensure that transactions such as fundraising, payroll, and financial awards are recorded in the applicable Athletics program.</i></p> <p><i>Further, budgeted salaries for Athletics staff will be properly organized in the Banner index that corresponds to their Athletics program using the “Salary Planner” budget module. This measure will ensure salary and benefits are budgeted and recorded in the correct Athletics program as they occur.</i></p>

**CASH DISBURSEMENTS****Purchasing and Accounts Payable**

UNM Athletics adheres to University Purchasing and Accounts Payable policies and procedures. The University’s Purchasing Department is the central purchasing authority for issuing Purchase Orders for all goods and services for Athletics. In addition, all state and federal rules and

regulations apply to the purchase of goods and services. Goods and services are primarily purchased through a purchase order or via P-Card.

Internal audit assessed internal controls and performed test work over purchasing and accounts payable disbursements using the purchase order process to ensure compliance with UNM Purchasing and Accounts Payable policies and procedures, and state and federal purchasing rules and regulations. No exceptions were noted.

### **P-Card**

The P-Card can only be used for the purchase of items or services with a valid business purpose, in compliance with P-Card and purchasing policies and procedures, and must be recorded to an appropriate account code. As of June 30, 2017, the Athletics department had 34 active P-Cardholders. Internal audit assessed internal controls over P-Card disbursements, and performed test work to ensure compliance with UNM's P-Card policies and procedures, and that transactions are recorded to the correct account code. Nine (9) of 74 P-Card purchases tested were not recorded to the correct account code.

### **Recommendation 8:**

The Athletics Chief Financial Officer should ensure P-Card reviewers are conducting thorough reviews of P-Card activity to ensure P-Card transactions are recorded to the appropriate expense account.

### **Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: A thorough review of all P-Card activity will be conducted to ensure that reviewers of P-Card activity are following all applicable policies and procedures and all P-Card transactions are recorded to the appropriate expense account.</i>

### **Cash Advances**

In July 2014, UNM Purchasing replaced travel advances with P-Card cash advances in cases where there is an appropriate need to obtain cash while traveling. The following guidelines are published on the University Purchasing Card website.

- A receivable account will be established, in the name of the person receiving cash.
- Cash may only be obtained to make payments if that is the only acceptable means of payment. Common examples for the uses of cash include providing meal money (per diem) to student athletes.
- The P-Card cannot be used by the employee to charge personal meals.
- The P-Card holder is responsible for obtaining a receipt, or other documentation, to support all cash purchases.
- Care should be taken to ensure that only the necessary cash be obtained. Any unspent cash must be deposited on a Money List with the Cashier's Office immediately upon return from travel.

Athletics P-Cardholders have the ability to obtain cash advances using the P-Card, primarily needed for tips and incidentals during team travel, and various costs related to coaches' recruitment trips.

Due to instances of misuse and identified risks related to cash advances during FYs 2015 and 2016, the UNM P-Card office implemented tighter restrictions and strengthened internal controls for cash advances, resulting in a decrease in cash advances from FY 2016 to FY 2017. In December of 2016, Athletics also implemented prepaid debit cards used for student athletes and student managers' cash allowances for per diem, housing allowances, etc., significantly reducing the need for cash advances. The need for cash advances are now primarily for team travel and coaches' recruitment incidentals.

Cash advances during FYs 2016 and 2017 are presented below.

<u>Fiscal Year</u>	<u>Number</u>	<u>Amount</u>
2016	216	\$ 304,335
2017	61	\$ 151,998

Internal Audit performed audit procedures to determine if FY 2016 and 2017 cash advances submitted for review had a valid business purpose and were supported with adequate documentation. The majority of issues related to cash advances occurred during FY 2016, prior to tighter restrictions, strengthened internal controls, and the prepaid debit card process. Issues related to cash advances for FYs 2016 and 2017 are noted below.

#### FY 2016 Cash Advances

- For seven (7) cash advances for football player team massages totaling \$8,330, the following issues were noted:
  - No documented business purpose for football players getting team massages.
  - No documented rates or massage therapist credentials for services provided at rates charged for \$100, \$150, and \$200.



- Cash recipients/massage therapist did not always sign an acknowledgement of cash received for services.
- Allowable cash allowances for student athlete and student manager travel and holiday breaks were determined by the Athletics Compliance office. However, P-Cardholders were not required to submit documentation with the Compliance Office's calculation for approved cash allowances with their P-Card reconciliation. Therefore, adequate documentation for cash advance were not always maintained for review.
- Excess cash for 15 cash advances totaling \$1,872 was not deposited in a timely manner. In addition, no deposit documentation was submitted with one cash advance that had excess cash of \$345 to determine when, or if, excess cash was deposited.

#### FY 2017 Cash Advances

- Allowable cash allowances for Student athlete and student manager travel and holiday breaks were determined by the Athletics Compliance office. However, P-Cardholders were not required to submit documentation with the Compliance Office's calculation for approved cash allowances with their P-Card reconciliation. Therefore, adequate documentation for cash advances were not always maintained for review.
- Excess cash for five (5) cash advances totaling \$485 were not deposited in a timely manner.

#### **Recommendation 9:**

Although new processes have been implemented for student athletes' and student managers' cash allowances for per diem, holiday housing, etc., internal controls should continue to be strengthened and enforced to ensure cash advances are for a valid business purpose and properly supported, and excess cash is deposited in a timely manner. The Athletics Chief Financial Officer should ensure that supporting documentation submitted for cash advances clearly supports the business purpose, and identifies how cash advance needs are calculated.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: A thorough assessment of all activities related to cash advances will be completed. Following the completion of this assessment, best practices will be implemented and internal controls will be strengthened and enforced to ensure that all cash advances are for a valid business purpose, the documentation submitted for each cash advance clearly supports the business purpose, and excess cash is deposited in a timely manner.</i>

**Recommendation 10:**

The Athletics Chief Financial Officer should require all Athletics P-Cardholders to take the Cash Management training and enforce cash management policies and procedures requiring timely deposit of excess cash not used from cash advances. Excess cash should be deposited by the next working day upon completion of the business activity.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<i>Corrective Action Planned: All Athletics P-Cardholders will be required to complete Cash Management training and all cash management policies and procedures will be enforced, such as requiring timely deposit of excess cash not used from cash advances. In addition, any excess cash will be deposited by the next working day upon completion of the business activity.</i>

Chrome River Approvers

In December 2016, UNM implemented the Chrome River Payment Management System, which is a third party payment system with Banner integration capabilities. It replaced the prior manual paper based travel and expense reimbursement process (DPEZ) and prior UNM Purchasing Card (P-Card) paper reconciliation process.

The review and approval process for P-Card and employee reimbursement transactions in Chrome River is a key internal control to ensure transactions are allowable, have appropriate supporting documentation, and are recorded to the correct account code. Although the Athletics department had 34 P-Cardholders generating approximately 4,500 P-Card transactions, and approximately 1,100 travel reimbursements from January 1, 2017 to June 30, 2017, there are only three assigned Chrome River approvers for the Athletics department. The number of Athletics Chrome River approvers is not sufficient to conduct an adequate review of P-Card and travel reimbursement transactions to ensure transactions are allowable, accurate, and properly recorded.

**Recommendation 11:**

The Athletics department should have sufficient Chrome River reviewers and approvers for the volume of transactions that flow through the Chrome River Payment Management System. The Athletics Chief Financial Officer should:

- a.) Conduct an assessment of P-Cardholders, P-Card transactions, and reimbursements by each Athletics area to determine the number of Chrome River reviewers and approvers needed for each Athletics area.
- b.) Assign Chrome River reviewers and approvers responsible for the review and approval of P-Cardholders and reimbursements by Athletics area.
- c.) Ensure reviewers and approvers complete the Chrome River online training.

**Response from the Athletics Chief Financial Officer:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<i>Assigned to: Senior Associate Athletics Director – Chief Financial Officer</i>
<p><b>Corrective Action Planned:</b></p> <ol style="list-style-type: none"> <li>a.) <i>A thorough assessment of P-Cardholders, P-Card transactions, and reimbursements by each Athletics area will be completed to determine the number of Chrome River reviewers and approvers needed for each Athletics area.</i></li> <li>b.) <i>Chrome River reviewers and approvers responsible for the review and approval of P-Cardholders and reimbursements will be assigned according to official duties and areas of oversight.</i></li> <li>c.) <i>All reviewers and approvers will be required to complete the Chrome River online training.</i></li> </ol>

### **Prepaid Debit Cards**

On December 19, 2016, the University implemented a process of issuing approved cash allowances for student athletes and managers on prepaid debit cards. This process replaced the need for withdrawing cash advances on a UNM P-Card.

Internal Audit performed test work to determine if adequate controls are in place for prepaid debits cards and cash allowances loaded on the cards are accurate, and for a valid business purpose. No exceptions were noted.

### **Employee Reimbursements**

Athletics adheres to UAPP 4030: Travel for travel disbursements and reimbursements. Athletics' employees are reimbursed in accordance with the policy for reasonable and allowable costs incurred when traveling on official business. Reimbursement requests must be reviewed and approved by a direct supervisor or department head.

If the employee is requesting reimbursement for meals, the amount for each meal must be in compliance with the New Mexico Per Diem and Mileage Act. Internal Audit performed test work to ensure travel disbursements are in compliance with UAPP 4030 and the New Mexico Per Diem and Mileage Act. No exceptions were noted.

### **Payroll and Employee Benefits**

Athletics adheres to UAPP 2645: Accounting of Labor Expenses for biweekly and monthly payrolls. Internal Audit assessed internal controls and performed test work to ensure payroll disbursements are in compliance with UAPP 2645 and to ensure employee contracts are properly approved and executed.

#### **Coaches Overpayment (Appendix 2)**

*UAP 2680: Payroll Overpayment and Collection states, "on occasion, due to errors in processing and/or timeliness of submission and reporting, employees may be paid more than is owed to them. UNM Departments are responsible for reporting errors to the Payroll Department as soon as the error is discovered. If the employee becomes aware of an overpayment, the employee is responsible for reporting it directly to the Payroll Department and to his or her department administrator. The University is authorized to pursue repayment during employment or after termination of employment, including deduction of any amounts owed from the employee's final paycheck."*

*"Upon discovery, the Payroll Department researches the source of the error and calculates the amount paid in error, accounting for taxes, retirement, and other amounts withheld. The Payroll Department then notifies the employee and supervisor of the overpayment. Information includes the date of occurrence, the cause of the overpayment,*

*and notice that the overpayment will be deducted from the next payroll payment in process as applicable.”*

The following are instances of coaches’ payroll overpayments:

- Men’s Basketball Head Coach

The Men’s Basketball Coach was overpaid on his salary each month for a period of 12 months beginning April 2013, and ending March 2014. The payroll overpayments occurred when the Coach was promoted from Assistant Head Coach of the UNM Men’s Basketball Program to the position of Head Coach of the Program. When the Coach was promoted to Head Coach, a new contract with new terms and conditions was executed, including an increase in base salary as well as increased and additional extra compensation payments. The contract changes are made in UNM's Banner system at the Main Campus Human Resources Department. The extra compensation payments are entered into the system based on the "Non-Standard Payment" (NSP) form that is routed through the approval queue in the NSP process detailed above.

For the position of Assistant Head Coach, the contract stipulated other compensation as Assistant Head Coach which was to be paid through March 31, 2014. The Coach took over as Head Coach on April 8, 2013, and this position also had other compensation as delineated in the Head Coach's contract. When the extra compensation for Head Coach was entered into Banner, the other compensation for the Assistant Head Coach position was not ended; therefore, he continued to be paid other compensation for the Assistant Head Coach position until the error was discovered by Payroll in April 2014.

The total payroll overpayment to the Men’s Basketball Coach was \$144,215.91 of gross wages; however, after adjustment for withholding for payroll taxes (and other deductions) already remitted to taxing authorities, the amount due from Coach Neal, as determined by the UNM Payroll Department was \$123,710.80.

The Men’s Basketball Head Coach repaid the University the total amount due of \$123,710.80, through payroll deductions over 12 months, with the balance completely paid off on June 30, 2015.

- Baseball Coach

The Baseball Coach was overpaid on his salary each month for a period of 20 months beginning July 1, 2013, and ending February 28, 2015. The payroll overpayments occurred when the Coach renegotiated his contract in June of 2013 to include increases in other compensation. Payroll errors as the result of contract negotiations resulted in overpayments totaling \$39,601.26.

The Coach repaid the University through payroll deductions until his overpayments were paid in full.

- Men's Soccer Coach

The Men's Soccer Coach had payroll overpayments due to a 2.5% salary increase granted to UNM employees, which he was supposed to be excluded from. As part of Coaches 2014 contract renegotiation, it was agreed he would forgo/be excluded from the 2.5% raise, in lieu of the increase in his deferred compensation. However, the Coach was not excluded from receiving the 2.5% raise and was overpaid a total of \$1,185.65 in the months of July – December, 2014. Internal Audit performed audit procedures and determined that no other employee was overpaid due to the 2.5% salary increase.

**Recommendation 12:**

The Vice President for Human Resources should:

- a.) Address identified payroll weaknesses and make sure extra compensation payments are not duplicated in the future.
- b.) Review the process for entering data into jobs and positions so that there is not a duplication of Non-Standard Payment (NSP) forms/payments to coaches and other employees under contract.

The Senior Associate Athletic Director for Administration should:

- a.) Ensure that Non-Standard Pay (NSP) forms accurately reflect contract terms and provide the Payroll Department copies of both the NSP forms and the coaches' contracts, including all addendums, to ensure that payroll information has been entered into the system accurately.
- b.) Monitor payments to coaches for three (3) months after contracts are initially executed, changed, or renegotiated to make sure that actual payments to the employee are consistent with the contract terms and payments in Banner tie to amounts in finalized contracts.

**Response from the Vice President for Human Resources:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Human Resources Director of Client Services</i>
<p><b>Corrective Action Planned:</b></p> <ol style="list-style-type: none"><li><i>1. The Division of Human Resources worked with the Office of University Counsel to modify the current employment contract/addendum amendment process for Athletic staff. Previously, when a portion of a coach's contract was changed, an amendment to the addendum is issued addressing only the terms that have changed. Currently, the Division of Human Resources now creates a new addendum in its entirety whenever there is a change in the terms of employment beyond a change in salary, duration, or other minor revision.</i></li><li><i>2. The UNM Division of Human Resources will review the NSP form upon receipt and prior to processing into UNM's Banner System. They will be responsible for verifying the accuracy of the data on the form and ensuring there is no duplication of NSP payments. They will also review existing NSP payments already in Banner, and terminate as needed. A standard operating procedure and corresponding checklist has been developed to ensure a consistent process by Central HR when entering and reviewing NSP forms.</i></li></ol>

**Response from the Senior Associate Athletic Director for Administration:**

<b>Action Items</b>
<b><i>Targeted Completion Date: July 1, 2018</i></b>
<b><i>Assigned to:</i></b> <i>Senior Associate Athletics Director – Administration</i> <i>Senior Associate Athletics Director – Chief Financial Officer</i>
<b><i>Corrective Action Planned:</i></b> <ol style="list-style-type: none"> <li><i>1. Effective FY 18, Athletics HR will create a spreadsheet that includes all compensation – related details for coaches’ contracts. Athletics HR will continue to update and send spreadsheet for contract employees at least annually (send by July 1 each year) and then if there were to be mid-year changes will send updates on an as-needed basis to HR consultant and Athletics CFO. Athletics HR will review be responsible for monitoring the encumbrances compared to coach’s pay on a quarterly basis against the contract terms</i></li> <li><i>2. Beginning July 1, 2018 Athletics Business office, primarily the Senior Associate Athletics Director - CFO, unless otherwise delegated, will be responsible for monitoring the encumbrance compared to coaches’ pay on a monthly basis during account reconciliation. This will ensure payments made to coaches are consistent with the terms of the contract. In conjunction with Athletics HR quarterly review, any errors will be identified in a timely manner to ensure collection of overpayment or payment of underpayment.</i></li> </ol>

**Courtesy Car Program**

The Athletics Department provides courtesy cars to selected employees at the discretion of the Director of Intercollegiate Athletics. The Athletics department had 36 employees with courtesy cars at the end of FY 2017. All business use of the vehicles should qualify for business mileage expenses. Use of the vehicle between the office and other work-related destinations during or after the regular work day is considered business usage. The taxable portion of the courtesy car benefit is added to the employee’s earnings. The IRS considers commuting to and from work as taxable personal mileage.

During FYs 2016 and 2017, Athletics did not have a signed agreement for all courtesy car recipients, nor a written policy for courtesy car use. This increases the risk of courtesy car abuse and risk of incorrect mileage reporting in accordance with IRS requirements.

Internal Audit reviewed courtesy car use for reasonableness in amounts reported for business miles vs. personal miles. Courtesy car use is not always tracked accurately. During the month of June 2017, one courtesy car user reported 610 of 673 miles, or 91%, of use as business miles.



Internal Audit determined that this mileage allocation for the courtesy car use is not reasonable for the Athletic employment position.

Athletics has currently improved internal controls over the courtesy car program by requiring all recipients to sign a courtesy car agreement and drafting a policy for courtesy car use.

**Recommendation 13:**

The Director of Intercollegiate Athletics should continue strengthening internal controls to ensure the courtesy car program complies with IRS requirements, and provides overall benefit to the Athletics department. A signed agreement should be obtained for every courtesy car issued to an Athletics employee, and mileage should be closely reviewed to ensure personal vs. business miles are accurately reported. In addition, courtesy cars should only be assigned to Athletics’ employees if provided by their contract.

**Response from the Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Associate Athletics Director – Sports Administration Senior Associate Athletics Director - Chief Financial Officer</i>
<i>Corrective Action Planned: The outlined recommendations have been implemented. All personnel within the courtesy car program have completed and reviewed all policies and procedures prior to obtaining the courtesy vehicle. Athletics staff members and the Athletic Business Office will continue to monitor all aspect of the program with all employees.</i>

**CONTRACTS AND AGREEMENTS**

**Learfield Communications d.b.a. Lobo Sports Properties**

Marketing and Media Rights

UNM executed an agreement with Lobo Sports Properties on March 7, 2013 granting multi-media rights to: inventory, including print; media; sponsor; existing or new signage not already contracted to other parties; and, other promotional and sponsorship rights for football, men’s and women’s basketball games, men’s baseball games, and other intercollegiate sports. The term of the contract is through June 30, 2020.

Based on revenue provisions in the executed agreement, Lobo Sports Properties was to pay UNM a total of \$5,088,500 during FY 2016, and \$5,158,500 during FY 2017 for its multi-media

rights. Payments due to UNM for FYs 2016 and 2017 per each provision of the agreement are presented below.

Learfield Contracted Cash Payments							
	Section 9.1.4	Section 7			Section 8.2	Section 9.1.5	
Year	Licensing and Rights *	Suite Sales	Credits	NM Bowl	Office/Parking	Bonus Payment	Total Cash
2015-16	\$ 4,668,000	\$ 158,000	\$ (17,500)	\$ 10,000	\$ 20,000	\$ 250,000	\$ 5,088,500
2016-17	\$ 4,768,000	\$ 158,000	\$ (47,500)	\$ 10,000	\$ 20,000	\$ 250,000	\$ 5,158,500
2017-18	\$ 4,868,000	\$ 158,000	\$ (17,500)	\$ -	\$ 20,000	\$ -	\$ 5,028,500

Source: Learfield Agreement

\* Contracted payments to be received on December 31st and August 31st of each Athletic Year

Lobo Sports Properties made underpayments to UNM of \$68,000 during FY 2016 and \$188,000 during FY 2017. These underpayments were primarily due to an unsigned and undated amended agreement with Lobo Sports Properties which reduced the Licensing Fee due to UNM from \$4,668,000 to \$4,300,000 in 2015-2016 and \$4,768,000 to \$4,130,000 in 2016-2017. As part of the amended agreement, Lobo Sports Properties increased its bonus payments from \$250,000 to \$550,000 in 2015-2016 and \$700,000 in 2016-2017.

UNM received a check of \$2,161,500 dated December 28, 2017 from Lobo Sports Properties, which is also based on the unsigned amended agreement. Payments made by Lobo Sports Properties in accordance with the unsigned amended agreement have, and will, result in underpayments as illustrated below.

Learfield Actual Payments Received vs. Contracted Payments					
2015-16	Amount	2016-17	Amount	2017-18	Amount
	Dec-15 \$ 2,405,500	Dec-16 \$ 2,136,500		Dec-17 \$ 2,161,500	
	Aug-16 2,065,000	Aug-17 2,134,000		Payment 2 (not yet received)	2,179,000
	Aug-16 550,000	Aug-17 700,000		Bonus Payment (not yet received)	250,000
<b>Total Payments Received</b>	\$ 5,020,500	\$ 4,970,500			\$ 4,590,500
<b>Contracted Payments</b>	\$ 5,088,500	\$ 5,158,500			\$ 5,028,500
<b>Underpayment</b>	\$ (68,000)	\$ (188,000)			\$ (438,000)
				Accumulated Cash Underpayment	\$ (694,000)
				Less: Benefits Returned	\$ 666,000
				<b>Net Underpayment</b>	<b>\$ (28,000)</b>

Source: Learfield Agreements and Athletics

In addition to the amended payment schedule, Lobo Sports Properties provided the following annual benefits of \$222,000 to UNM Athletics for the three-year period totaling \$666,000:

- One thirty second (:30) commercial during each football and men's basketball radio broadcast for the purpose of promoting the University (valued at \$23,000);
- Elimination of pizza category sponsorship (valued at \$50,000);
- The right for UNM Athletics to use one of Learfield's football suites (valued at \$25,000);

- Four (4) field level suites (valued at \$120,000); and
- Eight (8) end zone club tickets (valued at \$4,000).

Although the amended agreement was not signed or dated by UNM nor Lobo Sports Properties, UNM received payments and services from Lobo Sports Properties as outlined in the amended agreement. Athletics followed proper UNM Purchasing procedures throughout the process.

New Mexico Statutes, Section 37-1-23, Contract Liability; Statute of Limitations states, “Governmental entities are granted immunity from actions based on contract, except actions based on a valid written contract.” Therefore, the New Mexico Statute indicates that UNM, as a governmental entity, is immune from suit on contract claims that arise from anything other than a “valid written contract.” An unsigned contract is generally not considered valid and enforceable against a party that did not sign it. Therefore, Lobo Sports Properties cannot bind UNM to an unsigned agreement, and UNM is legally entitled to require payments based on the 2013 executed agreement.

#### Pepsi Sponsorship

UNM entered an agreement with Pepsi Beverages Company effective July 1, 2010 for the exclusive right to make beverages available for sale and distribution throughout UNM facilities. The facilities include, but are not limited to; vending services; food service; bookstores and other retail locations; and, the right to provide all beverages sold at athletic contests, booster club activities, and all other special events conducted at any location at the Facilities (“Special Events”). As specified in the agreement, Pepsi is to pay UNM an annual sponsorship fee of \$1,000,000 within 45 days after each fiscal year through June 30, 2018. Also, UNM’s contract with Pepsi grants Pepsi an unspecified right to advertise at UNM venues, including at the University’s Athletics facilities. The Learfield contract Section 9.1.6 states that “*If the University receives revenue payments directly from a Sponsor, Learfield may subtract such revenue from the Guaranteed Licensing and Rights Fee. However, this provision does not apply to those revenues received by the University from the retained Sponsorship Agreements specified in Section 5.18.*”

Athletics makes annual payments of \$450,000 to Learfield Communications, Inc. for a “Pepsi” contract. Athletics’ staff was able to demonstrate how this payment was calculated. However, per the contract, this amount should have been deducted from Learfield’s payments to UNM, rather than paid to Learfield by UNM without a signed purchase order/contract.

#### **Recommendation 14:**

Contracts entered into by the Athletics department should be closely monitored to ensure compliance with provisions agreed between Athletics and the Contractor. Athletics should only adhere to the provisions set forth in properly executed agreements that are signed and dated by an authorized official.

The Director of Intercollegiate Athletics should:

- a.) Work with UNM Legal Counsel and Learfield Communications to determine a path forward to payment from Lobo Sports Properties, which may take the form of an amended or new contract.
- b.) Work with Learfield Communications and Pepsi to ensure that credits due Learfield pursuant to the contact are properly transacted. Payments to Learfield, if any, should only be made based on an executed contract issued by the University Purchasing Department.

**Response from the Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Director of Intercollegiate Athletics</i>
<i>Corrective Action Planned: Athletics worked with UNM Legal Counsel and Learfield in amending the 2013 Marketing and Media Rights agreement with Learfield Communications. The amended agreement was signed by the appropriate UNM officials on May 10, 2018 and Learfield on May 11, 2018. Pepsi money allocated to sponsorship will be deducted from the annual rights fee in fiscal year 2019.</i>

Levy Restaurants

UNM entered an agreement with Levy Restaurants on April 6, 2016 for the provision of Athletic concessions and catering services (“Concession Services Program”) at the University. The agreement includes all Athletic events, exclusive rights to provide summer conference/camp concession service, provision of Concessions Services Programs at future locations, and the replacement, addition, or enhancement of any University locations, as agreed to by the University. In exchange, UNM receives a revenue-sharing percentage of gross receipts for each event.

Internal Audit performed audit procedures to ensure compliance with revenue-sharing requirements and key provisions of the contract. Levy made revenue-sharing payments and complied with key provisions as outlined in the contract agreement. Levy’s concessions, gross receipts, and required revenue-sharing payments for FY 2017 are presented below.

Levy Concessions Revenue Sharing Payments				
Source of Gross Receipts	Gross Receipt Range	%	FY 2017	
			Gross Receipts	Required Payment
Football Stadium Concessions	0 - \$500,000	32.50%	\$ 267,889	\$ 87,064
	> \$500,000	37.50%	N/A	N/A
Basketball Arena Concessions	0 - \$500,000	35%	\$ 375,597	\$ 131,459
	\$500,000 - \$1,000,000	40%	N/A	N/A
	> \$1,000,000	45%	N/A	N/A
Other Events	0 - \$750,000	30%	\$ 395,906	\$ 118,771.80
	\$750,000 - \$1,000,000	35%	N/A	N/A
	> \$1,000,000	40%	N/A	N/A
Olympic Sports	All	30%	\$ 74,156	\$ 22,247
Catering Food and Beverage	0 - \$850,000	18%	\$ 439,096	\$ 79,037
	> \$850,000	22%	N/A	N/A
Concessions Alcohol	All	50%	\$ 338,167	\$ 169,084
Subcontractors	All	30%	\$ 55,499	\$ 16,650
		<b>Total</b>	<b>\$ 1,946,310</b>	<b>\$ 624,312</b>
		<b>Payments Received</b>		<b>\$ 624,312</b>
		<b>Variance</b>		<b>-</b>

Source: Levy Agreement

Contract Authority

UAP 2010: Contracts Signature and Review, Section 4.11, Athletics, states, “the Vice President for Athletics is authorized to sign all game contracts and contracts for rental of Athletic facilities.”

UAP 2010: Contracts Signature Authority and Review, Section 5, Contract Review, states, “Each contract must be carefully reviewed by the University employee initiating the contract and a University contract review officer. The University administrator with signature authority may designate additional review requirements for particular types of contracts, such as University Counsel for legal issues or Controller's review for budget.”

UAP 2010: Contracts Signature and Review, Section 5.2, Contract Review Officer, states, “Each administrator granted signature authority by this policy shall designate one or more contract review officers for contracts under their purview. All contract review officers shall be UNM employees.”

Internal Audit identified non-compliance with UAP 2010 with the following contract authorizations.

- **Anthony Travel (Scotland Golf Tour)**

The former Director of Intercollegiate Athletics and Anthony Travel Incorporated (ATI) executed an agreement on October 29, 2014 for the purpose of providing golf packages for a Scotland Golf Tour fundraising event from June 19, 2015 through June 25, 2015.

Although the former Vice President for Intercollegiate Athletics was authorized to sign all game contracts and contracts for rental of the Athletic facilities, the service agreement with ATI for the Scotland Golf Tour was not for either of these services. In addition, the contract did not obtain a second review or approval from a designated Contract Review Officer.

- **Lobo Sports Properties/Albuquerque Tents**

The former Athletics Financial Analyst signed a three-way Memorandum of Understanding with Lobo Sports Properties and Albuquerque Tents, requiring Athletics to make payments to Lobo Sports Properties in lieu of Athletics' payment obligations to Albuquerque Tents, and Albuquerque Tents' payment obligations to Lobo Sports Properties. The former Financial Analyst did not have contract signing authority and should not have entered into this Memorandum of Understanding.

**Recommendation 15:**

The Director of Intercollegiate Athletics should:

- a.) Ensure all Athletics contracts are reviewed by a designated Contract Review Officer. Contracts initiated by the Director of Intercollegiate Athletics should be reviewed and approved by the Executive Vice President for Administration or by Purchasing.
- b.) Ensure contracts/agreements are not entered by an Athletics employee who is not authorized to enter contracts/agreements. A review of UAP 2010: Contracts Signature and Review should be performed and assignments of appropriate contract signing authority should be delegated to Athletics officials based on the Director for Intercollegiate Athletics determination.

**Response from the Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Director of Intercollegiate Athletics</i>
<p><b>Corrective Action Planned:</b></p> <p>a.) <i>All Athletics contracts are reviewed by a designated Contract Review Officer. In addition, all contracts initiated by the Director of Intercollegiate Athletics are reviewed and approved by the Purchasing Department and the President.</i></p> <p>b.) <i>All Athletics contracts/agreements are entered by an Athletics employee who is authorized to enter contracts/agreements.</i></p>

**ENDOWED FUNDS**

Private support is very important to the financial health of the Athletics department. Endowed gifts are a special type of private support whereby the donor designates that the principal be held for investment and the interest earned on the principal is spent as directed by the donor.

The University of New Mexico Foundation transfers endowment spending distributions to Athletics endowment spending accounts on a quarterly basis. The spending distribution (the amount that can be spent) that is transferred is based on predetermined percentages set forth by the "Regents' Endowment Investment Management Policy." Endowment spending distributions are recorded as an unrestricted, designated funding source.

Compliance with Donor Intent

The UNM Foundation provides donor intent information to Athletics. Athletics is responsible for ensuring that adequate processes are in place for disbursements from endowed spending accounts, and that the disbursements comply with donor intent. Internal audit performed audit procedures to obtain an understanding of internal controls in place for disbursements from endowed funds, and to ensure disbursements were in compliance with donor intent. Athletics does not have a formal process for awarding financial awards, or recording and monitoring disbursements from endowment funds to ensure compliance with donor intent.

Financial award and disbursement activity for endowments is not a separate process from financial award and disbursement activity from the Athletics index (925374), which is primarily used for recording financial awards. Expenses charged to endowment funds are recorded via

journal voucher by transferring a portion of recorded expenses from the Athletics index 925374 to endowments based on their funds available. For example, the following was noted during testing of endowment expenses:

- Documentation supporting expenses recorded to six endowments totaling \$20,437 was not available for review. The expenses were logged to these endowments by a journal voucher recorded by the Athletics business office, transferring financial awards initially recorded in the Athletics index 925374. Internal Audit was able to verify that student athletes had financial awards and were participants for the sports program that the endowment was intended for. However, there is no documentation indicating a formal process was followed to ensure compliance with donor intent.
- A year-end journal voucher was recorded by unrestricted accounting on 6/30/2016 to move financial award expenses of \$25,240 from the Athletics index 925374 to various endowments. Documentation supporting this journal voucher was not available for review. Therefore, Internal Audit could not determine the purpose of these expenses, and if they comply with donor intent.
- The following ten disbursements tested did not comply with donor intent:
  - One disbursement for per diem and incidentals of \$1,470 for the ski coach's recruiting trip to Sweden were charged to a ski program endowment intended for ski equipment.
  - Two financial award disbursements were charged to endowments intended for a different athletic program. A financial award of \$1,000 for a women's basketball player was charged to a ski program endowment. In addition, a financial award of \$2,500 for a men's basketball player was charged to a golf program endowment.
  - Three financial award disbursements totaling \$14,737 were charged to a ski program endowment intended for ski equipment.
  - Athletics did not comply with donor restrictions pertaining to minimum Grade Point Average (GPA) requirements for financial awards disbursed to two student athletes. The 5th Year Scholarship endowment requires a minimum GPA of 2.5; however, a student was awarded a financial award for \$8,891 although he did not meet the minimum GPA requirement. In addition, the Donald B. Anderson endowment requires a minimum GPA of 3.0; however, a student was awarded a financial award of \$8,755 although he did not meet the minimum GPA requirement.



- The Donald B. Anderson and Wellborn Scholarship endowments are intended for financial awards for enrolled students who have exhausted their athletics eligibility. Financial awards for \$6,000 and \$4,500 were disbursed to two students that had not exhausted their athletic eligibility.

**Recommendation 16:**

Strong internal controls should be in place for expenses charged to endowed funds to ensure compliance with donor intent. Financial awards disbursed from endowed funds should be a separate process from other Athletics financial awards, and should be recorded to the applicable endowment index as they occur.

The Athletics Chief Financial Officer should:

- a.) Develop a formal process for the awarding and disbursement of financial awards from endowment funds.
- b.) Implement a scholarship committee to review student qualifications to ensure financial awards disbursed from endowments meet donor restrictions.
- c.) Perform a detailed review of disbursements from endowed funds to ensure activity charged to endowments are in compliance with donor intent.
- d.) Reimburse endowments that were incorrectly charged for disbursements that did not meet donor restrictions.
- e.) Work with donors to broaden restrictions on certain endowments if current restrictions are difficult to meet.

The University Controller should:

Ensure expenses recorded by Unrestricted Accounting to endowment accounts are only made if adequate supporting documentation has been reviewed. Journal vouchers should not be used to record expenses to endowment accounts unless compliance with donor intent has been verified.

**Response from Athletics Chief Financial Officer:**

<b>Action Items</b>
<b>Targeted Completion Date:</b> August 1, 2018
<b>Assigned to:</b> Senior Associate Athletics Director – Chief Financial Officer Deputy Athletics Director for Internal Operations – Senior Woman Administrator
<b>Corrective Action Planned:</b>  <ul style="list-style-type: none"> <li>a.) A formal process will be developed for the awarding and disbursement of financial awards from endowment funds.</li> <li>b.) A scholarship committee will be formed to review student qualifications to ensure financial awards disbursed from endowments meet donor restrictions.</li> <li>c.) A detailed review of disbursements from endowed funds will be performed to ensure activity charged to endowments are in compliance with donor intent.</li> <li>d.) Endowments that were incorrectly charged for disbursements due to the failure to meet donor restrictions will be reimbursed.</li> <li>e.) Athletics administration will work with donors to broaden restrictions on certain endowments if current restrictions are difficult to meet.</li> </ul>

**Response from University Controller:**

<b>Action Items</b>
<b>Targeted Completion Date:</b> Effective Immediately
<b>Assigned to:</b> Associate Controller, Unrestricted Accounting
<b>Corrective Action Planned:</b> Effective immediately, no journal vouchers submitted for approval that are transferring costs from athletic operation indexes to endowment accounts will be processed or approved without adequate supporting documentations indicating the specific transaction being transferred and must include supporting documentation indicating that the transaction being transferred is compliant with donor intent for the index receiving the transaction.

## OTHER

### Pit Suite and Club Seat Sales

The Lobo Club manages the sale and collection of Pit Suite and Club Seat sales, which includes 40 suites and approximately 384 club seats. On July 14, 2017, a news article was reported by a media outlet regarding unpaid Pit Suite and Club Seats sales. According to the article, there were uncollected receivables of \$432,641 from Pit Suite and Club Seat sales dating back to fiscal year 2010. Internal Audit obtained the receivable schedule and performed audit procedures to determine if collections have been made on the reported balances, and to determine collectability of outstanding balances by reviewing contracts, invoices, and other supporting documentation/written communication.

Of the \$432,641 in receivables reported by the Albuquerque Journal, UNM has collected \$191,114 and \$47,500 were properly adjusted due to duplicate recording of sales (\$45,000) and inaccurate recording of payments (\$2,500). For the remaining receivables, \$10,000 is collectable, while \$184,027 are uncollectable. The following presents a summary of Pit Suite and Club Seat receivables, by fiscal year.

Pit Suite and Club Seats Accounts Receivable					
Receivable, by Fiscal Year	Balance	Adjustments	Collected	Collectable	Uncollectable
2010	\$ 27,334	\$ -	\$ -	\$ -	\$ 27,334
2011	32,834	-	11,666	-	21,168
2012	70,334	-	49,585	-	20,750
2013	11,525	-	-	-	11,525
2014	194,489	47,500	36,739	10,000	100,250
2015	90,200	-	87,200	-	3,000
2016	5,925	-	5,924	-	-
<b>Total</b>	<b>\$ 432,641</b>	<b>\$ 47,500</b>	<b>\$ 191,114</b>	<b>\$ 10,000</b>	<b>\$ 184,027</b>

Source: Lobo Club

Late collections on sales and uncollectable receivables are due to a lack of established processes for the recording and collection of Pit suite sales. In addition, receivables deemed uncollectable are due to a lack of contract, sales invoice, or other supporting documentation indicating a valid sale. Without an executed contract or formal sales invoice, it is difficult for UNM to pursue legal avenues to collect disputed receivables. Beginning with the 2017-18 season, the Lobo Club improved processes for the sales and collection of Pit Suites and Club Seats. Internal Audit tested Pit Suite and Club Seat sales and determined formal sales documentation was obtained and full collection had been made.

The Lobo Club is responsible for the sale and collection of suites and club seats, and for recording the financial activity related to the sales and collections. However, there is not an executed agreement in place that clearly defines the roles and responsibilities pertaining to UNM and the Lobo Club for the sale and collection of Pit Suites and Club Seats.

**Recommendation 17:**

The Interim Executive Director of the Lobo Club should:

- a.) Continue to ensure formal documentation such as contracts or sales invoices is obtained for every Pit Suite and Club Seat sale.
- b.) Enforce implemented collection procedures.
- c.) Ensure receivables are reconciled on a regular basis to ensure balances are accurately reported.
- d.) Work with UNM's Legal Counsel and/or the Director of Intercollegiate Athletics to develop a formal agreement that clearly defines the roles and responsibilities pertaining to UNM and the Lobo Club for the sale and collection of Pit Suites and Club Seats.

**Response from the Interim Executive Director of the Lobo Club:**

<b>Action Items</b>
<i><b>Targeted Completion Date:</b> (A), (B), (C) – Completed (D) – August 1, 2018</i>
<i><b>Assigned to:</b> Interim Executive Director of the Lobo Club</i>
<i><b>Corrective Action Planned:</b> Recommendations (A), (B), and (C) have been implemented. Recommendation (D) – The Interim Executive Director of the Lobo Club is currently working with UNM's Legal Counsel as well as the Director of Intercollegiate Athletics to develop a formal agreement that clearly defines the roles and responsibilities pertaining to UNM and the Lobo Club for the sale and collection of Pit Suites and Club Seats.</i>

**NCAA and Mountain West Conference Tournament Tickets**

On an annual basis, the Director of Intercollegiate Athletics may attend the Mountain West Conference (MWC) and NCAA postseason tournaments as a working business activity. The contract agreement for the former Director of Intercollegiate Athletics states, “*Mr. Krebs’ spouse and dependent children will be added to the official University travel party to regular season away and NCAA postseason games within the continental United States.*” Based on this element of the employment contract, only the Director of Intercollegiate Athletics, his/her spouse, and his/her dependent children’s NCAA tickets and travel costs should be purchased with Athletics’ unrestricted funds. All other NCAA and MWC tickets purchased for UNM employees and private donors should be purchased using Lobo Club private funds.

Athletics does not have a formal process for the purchase and distribution of NCAA and MWC tickets. During NCAA Final Four tournaments from 2011-2017, Athletics purchased tickets for the former Director of Intercollegiate Athletics. The former Director of Intercollegiate Athletics distributed tickets to employees who reimbursed UNM for the ticket costs, and others were distributed to private donors and individuals without reimbursement to UNM. For FYs 2016 and 2017, Athletics tracked ticket distribution and reimbursements; however, there were no such records for NCAA tickets prior to FY 2016. In addition, unreimbursed lodging was purchased for private donors during the 2015 NCAA Final Four tournament.

The purchase of NCAA and MWC tickets, and lodging for private individuals from UNM funds may violate the Anti-Donation Clause of the New Mexico Constitution. The following table presents NCAA tickets and lodging costs for the NCAA Final Four tournament from 2011-2017.

NCAA Final Four Costs to UNM					
Event/Location	# of Tickets	Amount	Lodging	# Rooms	Total Cost
2011 NCAA Final Four - Houston	18	\$ 3,427.00	\$ 2,056.00	2	\$ 5,483.00
2012 NCAA Final Four - New Orleans	16	3,542.50	2,864.00	2	6,406.50
2013 NCAA Final Four - Atlanta	16	3,825.00	-	N/A	3,825.00
2014 NCAA Final Four - Dallas	13	3,371.25	2,904.00	3	6,275.25
2015 NCAA Final Four - Indianapolis	10	3,135.00	1,638.00	1	4,773.00 *
2016 NCAA Final Four - Houston	12	4,681.00	1,728.00	1	6,409.00
2017 NCAA Final Four - Phoenix	28	13,119.50	-	N/A	13,119.50
<b>Total</b>	<b>113</b>	<b>\$35,101.25</b>	<b>\$11,190.00</b>	<b>9</b>	<b>\$ 46,291.25</b>
				Reimbursements	\$ (16,426.00)
				<b>Net</b>	<b>\$ 29,865.25</b>

\* \$1,460.00 for private donors - 1 room.

Source: Banner Accounting System

In addition to the purchase of the above NCAA tickets, Athletics purchased 18 tickets each for the 2016 MWC tournament at \$250 each for a total of \$4,500 and 22 tickets for the 2017 MWC tournament at \$250 for a total of \$5,500. Tickets were distributed to UNM and other individuals not employed by the University.

### Recommendation 18:

Athletics should purchase NCAA and MWC tournament tickets only for UNM officials with such a provision for tickets in their employment contract. The Director of Intercollegiate Athletics should require NCAA and MWC tournament tickets to be purchased through the Lobo Club, which may then sell or distribute tickets as it deems necessary.

**Response from Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: Completed</i>
<i>Assigned to: Director of Intercollegiate Athletics</i>
<i>Corrective Action Planned: Athletics purchases NCAA and MWC tournament tickets only for UNM officials who are attending to conduct official university business and/or have such a provision for tickets in their employment contract. The Director of Intercollegiate Athletics requires NCAA and MWC tournament tickets to be purchased through the Lobo Club, which may then sell or distribute tickets as it deems necessary.</i>

**Events Management Parking Collection and Payroll Processing**

The Events Management division employees up to 120 part-time and on-call employees to work Athletics events, special events, and Isotopes baseball games. Part-time and on-call employees are primarily responsible for parking collections, ushering, ticket collections, etc.

**Parking Fee Collections**

The Athletics department, through its Events Management division, charges parking fees for Athletics and special event activities. Parking fees are collected for UNM events including men's basketball and football, and non-UNM events including Isotopes baseball, high school state basketball tournaments, and other special events. Parking fee revenues recorded in Banner for FYs 2016 and 2017 were as follows:

	<u>FY 2016</u>	<u>FY 2017</u>
Athletics Events	\$ 409,705	\$ 140,933
Special Events	152,165	194,015
Isotopes Baseball	<u>281,067</u>	<u>293,739</u>
Total	<u>\$ 842,937</u>	<u>\$ 628,687</u>

UAP 7200: Cash Management, Section 2. Deposits states, “*Monies received should be deposited at the University Cashier Department intact by the next working day following receipt. When less than fifty dollars (\$50) is involved, monies may be accumulated up to a week.*”

Internal Audit performed audit procedures to determine if adequate internal controls are in place for the cash collection of parking fees and for accuracy and timeliness of cash deposits. Cash collections from four of seven events tested were not deposited in a timely manner. For example, parking fees of \$11,545 collected for a football game on November 5, 2016 were not deposited until November 18, 2016.

In addition, current processes do not segregate duties for the reconciliation and deposit of cash receipts. The Events Planner receives parking fee collections from the parking cashiers, prepares the cash reconciliation, and makes the deposit at the UNM Cashier's office. Subsequent reviews of cash collection and deposit activity is not performed. Having the same individual responsible for each of these duties increases the risk of cash being lost and/or misappropriated.

**Recommendation 19:**

The Assistant Athletics Director for Events should:

- a.) Enforce compliance with UAP 7200: Cash Management and ensure that cash deposits from parking fee collections are made by the next working day.
- b.) Separate cash reconciliation and deposit duties. A second person should be responsible for cash deposits to reduce the risk of misappropriation and/or lost cash.

**Response from the Assistant Athletics Director for Events:**

<b>Action Items</b>
<i>Targeted Completion Date: July 1, 2018</i>
<i>Assigned to: Assistant Athletics Director - Events</i>
<p><b>Corrective Action Planned:</b></p> <ol style="list-style-type: none"> <li><i>1. The Events Planner is responsible for acquiring, counting and reconciling all monies collected for each event. This individual will count all monies collected and then place the funds in the safe after each event.</i></li> <li><i>2. The following working day, the Assistant AD – Events will count the funds in the safe and initiate a deposit in accordance with UAP 7200. Thus, the Assistant AD – Events will be responsible for cash deposits to reduce the risk of misappropriation and/or lost cash.</i></li> </ol>

Payroll Processing

The United States Department of Labor Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments. The Fair Labor Standards Act states, “Wages required by the FLSA are due on the regular payday for the pay period covered.”

The University’s pay period for non-exempt employees runs from Saturday to Friday, with the time entry deadline on the following Monday. It is common practice for Events Management to pay its part-time and on-call employees the following pay period if they work an event on Thursday or Friday of the pay period. This is because part-time and on-call employee timesheets are only processed by one person, the Senior Associate Athletic Director for Administration. Although Athletics appears to be short-staffed for processing part-time and on-call timesheets for Events Management, its current practice does not comply with the DOL Fair Labor Standards Act.

**Recommendation 20:**

The Director of Intercollegiate Athletics should implement processes to ensure compliance with the Department of Labor Fair Labor Standards Act. Additional resources should be assigned to assist in the payroll process for part-time and on-call employees to ensure payroll processing is complete by the pay period deadline.

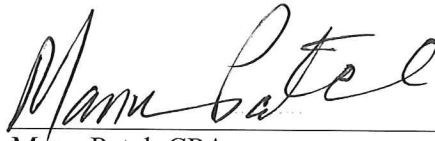
**Response from Director of Intercollegiate Athletics:**

<b>Action Items</b>
<i>Targeted Completion Date: September 1, 2018</i>
<p><b>Assigned to:</b>  <i>Assistant Athletics Director - Events</i>  <i>Senior Associate Athletics Director – Administration</i>  <i>Senior Associate Athletics Director – Chief Financial Officer</i></p>
<p><b>Corrective Action Planned:</b></p> <ol style="list-style-type: none"> <li><i>1. The Senior Associate Athletics Director – Administration will work with the Assistant Athletics Director – Events to change the current payroll tracking process to include the final Friday of the payroll cycle. Individual timesheets with both employee and supervisor signatures will be used.</i></li> <li><i>2. The Senior Associate Athletics Director – Administration will key timesheets, and prior to approval by the Senior Associate Athletics Director - CFO, will send the list of all inputted employees on Monday morning of the payroll deadline to ensure all time has been keyed properly and in advance of the deadline.</i></li> <li><i>3. The Senior Associate Athletics Director – CFO will then approve time and submit for processing prior to the payroll deadline.</i></li> </ol>



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**APPROVALS**



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Manu Patel, CPA  
Director, Internal Audit Department

Approved for Publication



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Thom Clifford  
Chair, Audit Committee



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**To:** David Harris, Executive Vice President for Administration  
Dorothy Anderson, Vice President of Human Resources  
Janice Ruggiero, Acting Director of Intercollegiate Athletics

**From:** Manu Patel, Director, Internal Audit *Manu*

**Date:** August 16, 2017

**Subject:** Confidential Investigation Report for UNM Athletics Department Payroll Overpayment of Certain Coaches, Special Audit 2017

### **Athletics Department Human Resources (HR) Hiring Process**

#### Athletics Hiring Process

HR has documented procedures for the Athletics hiring process. Once a candidate is hired, the employment information is on-boarded into UNM's Banner HR Payroll system by HR. Once information is entered into Banner, Payroll is notified and they conduct a validation process to ensure information is correct. Payroll should be sent copies of Contracts to ensure any incentive payments are entered correctly. Any changes to base pay are done through a contracted change – i.e. a Contract Addendum or New Term Sheet is filled out, and updates to Banner are made in a NBAJOBS in Banner by HR. Other Compensation, such as media appearances, product endorsements, and performance incentives, are activated through the following Non-Standard Payment Process:

#### **1. Athletics Department Responsibilities**

- The Athletics Department HR Representative (Rep) submits a Non-Standard Payment (NSP) form for any Other Compensation to Main Campus HR after obtaining approvals. NSPs are done in accordance with the Non-Standard Payment Guide. NSPs are for compensation that is not part of regular pay (i.e. promotions and endorsements, athletic camp programs, incentive salary, bonus, etc.).
- Department HR Rep routes the NSP through the Athletics Business Office for approval.
- After Athletics Business Office approval is obtained, Department HR Rep routes the NSP to the Department's HR Consultant.

## **2. Human Resources Responsibilities**

- The HR Consultant assigned to Athletics reviews the NSP and verifies the request is allowed under Sections 3 and 4 discussing Incentive Payments and Independent Income of contract Addendum.
- Once they verify that the information on the NSP is correct, then the HR Consultant will sign the form.
- The NSP is routed to a Transaction Center Rep for entry into Banner.
- All NSPs are then routed to Payroll for validation of Banner entry and processing of payment.

### UAP 2680 Payroll Overpayments and Collection

On occasion, due to errors in processing and/or timeliness of submission and reporting, employees may be paid more than is owed to them. UNM Departments are responsible for reporting errors to the Payroll Department as soon as the error is discovered. If the employee becomes aware of an overpayment, the employee is responsible for reporting it directly to the Payroll Department and to his or her department administrator. The University is authorized to pursue repayment during employment or after termination of employment, including deduction of any amounts owed from the employee's final paycheck.

Upon discovery, the Payroll Department researches the source of the error and calculates the amount paid in error, accounting for taxes, retirement, and other amounts withheld. The Payroll Department then notifies the employee and supervisor of the overpayment. Information includes the date of occurrence, the cause of the overpayment, and notice that the overpayment will be deducted from the next payroll payment in process as applicable.

Repayment in installments is only available on an exception basis if the overpayment is significantly large and would cause a hardship to the employee to pay it back in one payment or would bring the employee's rate of pay below minimum wage.

The University adheres to New Mexico statute, § 30-23-2, NMSA 1978, which states:

Paying or receiving money for services not rendered consists of knowingly making or receiving payment or causing payment to be made from public funds where such payment purports to be for wages, salary, or remuneration for personal services which have in fact been rendered. Whoever commits paying or receiving public moneys for services not rendered is guilty of a fourth-degree felony. Failure to comply with this policy can result in disciplinary action up to and including dismissal.

In each of the instances of employee payroll overpayment detailed below, the UNM Payroll department has followed UAP 2680 - Payroll Overpayments and Collection.

## **Coach Jeremy Fishbein**

### Contract Provisions

Jeremy Fishbein is the head coach of the UNM men's soccer team, and is in his 16th season at the helm of the Lobo Soccer program. Coach Fishbein's current contract term runs from July 1, 2016 through June 30, 2019.

Fishbein's base salary is periodically reviewed and negotiated with the VP of athletics. His current annual base salary is \$112,969.08, payable in monthly installments of 9,414.09. Fishbein is provided other compensation in the form of a courtesy car for his personal use, and a payment of \$25,000 annually for duties in promotion of the UNM Men's Soccer Program. In addition, Fishbein will earn incentive payments of \$18,000 for qualifying for a NCAA championship tournament, and \$1,000 per round for advancement in the tournament. For each year Coach Fishbein is employed as Head Coach of Men's Soccer, the University will make an annual deferred compensation payment of \$40,000 to his 403(b) retirement plan.

### Contract Renegotiation

In 2014, Coach Fishbein and the University renegotiated his contract effective July 1, 2014, extending the employment term to June 30, 2019, and increasing his deferred compensation to \$50,000 annually through June 30, 2017, and thereafter to \$60,000 annually through June 30, 2019.

For FY ended June 30, 2014, the UNM Regents awarded all full-time University employees a 2.5% salary increase. As part of Coach Fishbein's 2014 contract renegotiation, it was agreed he would forgo/be excluded from the 2.5% raise, in lieu of the increase in his deferred compensation. Erroneously, Coach Fishbein was not excluded from the receiving the 2.5% raise, and he was overpaid a total of \$1,185.65 in the months July – December, 2014.

### Exception Memo from Athletics HR

The mechanism for providing a university-wide raise is through the "mass salary update" (MSU) in Banner. Under this process, the raise is uploaded by Main Campus Human Resources into employee payroll records electronically through a massive batch update. Any employees not eligible for the raise are excluded from the salary update.

On June 9, 2014, the Athletics Human Resources representative sent the memo (dated June 6, 2014) to Main Campus Human Resources detailing employees that should be excluded from the 2.5% raise. Coach Fishbein was included on the list and should have been excluded from the update; however, due to turnover at Main Campus Human Resources and delays in processing the memo, the exclusion of Coach Fishbein was not executed and he was included in the 2.5% MSU raise.

The payroll overpayment error to Coach Fishbein appears to be an oversight, as no other employee listed in the Exception Memo from Athletics HR received the 2.5% salary increase.

Repayment of Payroll Overpayment

Coach Fishbein discovered the error himself in the fall of 2014 and notified Athletics HR, who then notified the UNM Payroll department. The Payroll Department issued a letter to Coach Fishbein explaining the error, a payroll overpayment in the amount of \$1,185.65. The overpayment was to be repaid through a payroll deduction to occur from March – June, 2015. The employee receivable was paid in full in June, 2015.

Coach Craig Neal

Coach Neal became head coach of the UNM Men's Basketball program in April of 2013, and terminated employment with the University through mutual agreement in March of 2017.

Contract Provisions

Coach Neal had several contract modifications throughout his tenure as first Associate Head Coach, and then as Head Coach of the UNM Men's Basketball program. The financial provisions of his coaching contracts were as follows:

Associate Head Coach

- A. Base Salary: \$153,000
- B. Other Compensation Includes:
  - 1. Courtesy car for personal and business use
  - 2. Country club membership
  - 3. Incentive payments at discretion of VP of Athletics
  - 4. Radio and television appearances at \$130,000 annually

Head Coach

Coach Neal's final contract was for a six year term beginning April 1, 2014 through March 31, 2020, with the following provisions:

- A. Base salary at \$300,000 per contract year
- B. Other compensation includes:
  - 5. Courtesy car for personal use
  - 6. Coach Neal's spouse is added to official University travel party for away games
  - 7. Eight (8) Season tickets for home games, and use of suite at the Pit for home games
  - 8. Membership to a country club
  - 9. In addition to the coach's base salary, Coach Neal will be paid \$250,000 per contract year for promotion of UNM Men's Basketball within the community/personal appearances
  - 10. In addition to the coach's base salary, Coach Neal will be paid \$250,000 per contract year for radio and television appearances
  - 11. Endorsement agreements with athletic apparel companies: \$100,000 per contract year
- C. Incentive Salary: In addition to the above compensation, Coach Neal may earn incentive salary for Conference championship appearances
- D. Deferred Compensation: University agrees to make an annual contribution of \$50,000 to Coach's 403(b) plan

Cause of Overpayment - Position Transition from Associate Head Coach to Head Coach

Coach Neal was overpaid on his salary each month for a period of 12 months beginning April 2013, and ending March 2014. The payroll overpayments occurred when Coach Neal was promoted from Assistant Head Coach of the UNM Men's Basketball Program to the position of Head Coach of the Program.

When Coach Neal was promoted to Head Coach, a new contract with new terms and conditions was executed, including an increase in base salary as well as increased and additional extra compensation payments. The contract changes are made in UNM's Banner system at the Main Campus Human Resources Department. The extra compensation payments are entered into the system based on the "Non-Standard Payment" (NSP) form that is routed through the approval queue in the NSP process detailed above.

For the position of Assistant Head Coach, Coach Neal's contract stipulated other compensation as Assistant Head Coach which was to be paid through March 31, 2014. Coach Neal took over as Head Coach on April 8, 2013, and this position also had other compensation as delineated in the Head Coach's contract. When the extra compensation for Head Coach was entered into Banner, the other compensation for the Assistant Head Coach position was not ended; therefore, he continued to be paid other compensation for the Assistant Head Coach position until the error was discovered by Payroll in April 2014, when Coach Neal called Payroll to inquire on the reduction in his salary. The other compensation is coded as ExtrComp (Earnings code 200) in the Banner System, and the duplication can be seen in Banner, but not necessarily on the Coach's pay stub.

Over Payment to Coach Neal and Subsequent Repayment

The payroll overpayments to Coach Neal occurred from April 2013 through March 2014, a total of 12 months. The first overpayment was coded in Banner as an adjustment to regular earnings of \$9,465.91 for April 2013. Thereafter, the overpayments were coded as extra compensation in the amount of \$12,250 each month from May 2013 through March 2014. The total payroll overpayment to Coach Neal was \$144,215.91 of gross wages; however, after adjustment for withholding for payroll taxes (and other deductions) already remitted to taxing authorities, the amount due from Coach Neal, as determined by the UNM Payroll Department was \$123,710.80.

The Payroll Department notified Coach Neal of the overpayment in a letter dated June 11, 2014, and Coach Neal acknowledged the overpayment in a letter signed on July 7, 2014. Also on July 7, 2014, Coach Neal entered into a Memorandum of Agreement (MOA) with the University regarding the repayment of the payroll overpayment. The terms of the MOA called for the University to withhold a minimum of \$10,309.23 from Coach Neal's monthly paycheck, until the total amount owed is repaid in full to the University. The MOA also stated that should Coach Neal separate employment from the University prior to full repayment, the balance would be withheld from his final paycheck. If any amount due was greater than the final paycheck, final repayment would be agreed upon prior to the Coach's last day of employment with the University.

Coach Neal repaid to the University the total amount due of \$123,710.80, through payroll deductions over 12 months, and with the balance completely paid off on June 30, 2015. (See Banner Screen PEIDTOT.)

### **Coach Ray Birmingham**

Coach Ray Birmingham is the Head Coach of the UNM Men's Baseball program. Coach Birmingham was overpaid on his paychecks from July 1, 2013 through February 28, 2015. The overpayment occurred due to a NSP that should have ended on July 1, 2013, but remained in effect and resulted in overpayment to Coach Birmingham during the July 1, 2013 to February 28, 2015 time period.

#### **Contract Provisions**

Coach Birmingham has had several contract modifications throughout his tenure as Head Coach of the UNM Baseball program. The relevant provisions to the overpayment of his coaching contracts were as follows:

#### **1<sup>st</sup> Addendum to Employment Agreement – August 1, 2010**

- A. Base Salary: \$96,900 in 2009, increased in 2012 by \$25,000
- B. Other Compensation Includes:
  - 1. Incentive Payments at discretion of VP of Athletics
  - 2. Public relations appearances at \$28,100 annually

#### **2<sup>nd</sup> Addendum to Employment Agreement – July 1, 2013**

- A. Base Salary: \$146,900 annually
- B. Other Compensation Includes:
  - 1. Use of courtesy car for personal use
  - 2. Incentive Payments at discretion of VP of Athletics
  - 3. Radio and television appearances at \$53,100 annually

Note: Coach Birmingham also received an increase to his base salary to \$150,572, effective July 1, 2015.

#### **Cause of Overpayment**

Coach Birmingham was overpaid on his salary each month for a period of 20 months beginning July 1, 2013, and ending February 28, 2015. The payroll overpayments occurred when Coach Birmingham renegotiated his contract in June of 2013, to include increases in other compensation.

The contract change prompted a new NSP form that was generated and submitted June 24, 2013. This new NSP should have superseded and replaced the previous NSP; however, the older NSP was never cancelled. The contract changes are made in UNM's Banner system at the Main Campus Human Resources Department. The extra compensation payments are entered into the system based on the NSP form that is routed through the approval queue in the NSP process

detailed above. The other compensation is coded as ExtrComp (Earnings code 200) in the Banner system, and the duplication can be seen in Banner, but not necessarily on the Coach's pay stub. The coach continued to be overpaid for the duplicate NSP until discovered by Athletics Human Resources in March of 2015.

Coach's 2015 Raise and Incentive Payment

Per an agreement with the Vice President of Athletics, Coach Birmingham received a raise in his base salary of \$5,000 beginning July 1, 2015. In addition, per his contract terms, Coach Birmingham was awarded at the discretion of the Vice President of Athletics, a \$20,000 incentive bonus for the 2014-15 season to be payable on the July 31, 2015 paycheck. The coach was encouraged to use the money to pay down a portion of the payroll overpayments.

Overpayment Letters from Payroll Department

The UNM Payroll Department notified Coach Birmingham of the payroll overpayments in three separate letters, one for each calendar year affected, and each letter dated April 21, 2015.

Net Payroll Overpayment July 1 – December 31, 2013	\$12,427.22
Net Payroll Overpayment Jan. 1 – December 31, 2014	24,770.17
Net Payroll Overpayment Jan. 1 – February 28, 2015	<u>2,403.87</u>
Total Payroll Overpayment due to University	<u>\$39,601.26</u>

Coach Birmingham repaid the University for the calendar year 2015 overpayment on July 14, 2015 by writing a check payable to UNM in the amount of \$2,403.87. Coach Birmingham repaid the University for the calendar year 2013 overpayment on August 7, 2015 by writing a check payable to UNM in the amount of \$12,427.22.

On November 24, 2015, Coach Birmingham entered into a Memorandum of Understanding (MOU) with the University regarding the repayment of the calendar year 2014 payroll overpayment of \$24,770.07. The terms of the MOA called for the University to receive various lump sum payments from Coach Birmingham with the balance due payable no later than June 30, 2017. The payments were deducted from Coach Birmingham's paycheck until the balance due to the University was paid in full as follows:

March 2017	\$5,000.00
April 2017	6,590.06
May 2017	6,590.06
June 2017	<u>6,590.05</u>
Total repayment for calendar year 2014	<u>\$24,770.17</u>

With the June 2017 payroll deduction, the total amount due to the University by Coach Birmingham for the 2013- 2015 payroll overpayments were paid in full.



### **Audit Findings**

#### **Condition:**

For FY ended June 30, 2014, the UNM Regents awarded all full-time University employees a 2.5% salary increase. As part of Coach Fishbein's 2014 contract renegotiation, it was agreed he would forgo/be excluded from the 2.5% raise, in lieu of the increase in his deferred compensation. Coach Fishbein was not excluded from the receiving the 2.5% raise and was overpaid a total of \$1,185.65 in the months July – December, 2014. Based on audit procedures applied to the 16 employees listed on the June 6, 2014 memo, only Coach Fishbein was overpaid, and no other employee on the excluded list received the 2.5% salary increase.

Coach Neal was overpaid on his salary each month for a period of 12 months beginning April 2013, and ending March 2014. The payroll overpayments occurred when Coach Neal was promoted from Assistant Head Coach of the UNM Men's Basketball Program to the position of Head Coach of the Program.

Coach Birmingham was overpaid on his salary each month for a period of 20 months beginning July 1, 2013, and ending February 28, 2015. The payroll overpayments occurred when Coach Birmingham renegotiated his contract in June of 2013 to include increases in other compensation.

#### **Criteria:**

Division of Human Resources Athletics Personnel Transaction and Hiring Processes  
Division of Human Resources NSP Guide  
University Administrative Policy 2680: Payroll Overpayments and Collection

#### **Cause:**

Jeremy Fishbein received the 2.5% raise through an oversight, where he inadvertently was not excluded from the Mass Salary Update.

Coach's Neal and Birmingham were overpaid due to NSPs from prior contracts not being voided in the Banner Payroll system when new contract terms were entered.

#### **Effect:**

Payroll overpayments to employees, resulting in accounts receivable due to the University from the employees.

#### **Recommendations:**

1. Main Campus HR should address these weaknesses and make sure extra compensation payments are not able to be duplicated in the future. Review process for entering data into jobs and positions so that there is not a duplication of NSP forms/payments to coaches and other employees under contract.
2. Athletics HR should ensure that NSP forms accurately reflect contract terms and provide the Payroll Department copies of both the NSP forms and the coaches' contracts, including all addendums, to ensure that payroll information has been entered into the system accurately.

3. Athletics HR should monitor payments to coaches for three (3) months after contracts are initially executed, changed, or renegotiated to make sure that actual payments to the employee are consistent with the contract terms and payments in Banner tie to amounts in finalized contracts.

### **EVP for Administration Management Response**

#### Human Resources Department /Athletics Human Resources

In collaboration with Athletics HR staff, Main Campus HR has instituted a number of changes for processing Non-Standard Payments (NSP) to proactively avoid overpayments.

- Effective FY18, Athletics HR will create a spreadsheet that includes all compensation-related details for coaches' contracts. Athletics HR staff will be responsible for monitoring the encumbrances compared to coaches' pay on a quarterly basis against the current contract terms. This will ensure payments made to coaches are consistent with the terms of the contract. Any errors will be identified in a timely manner to ensure collection of overpayment.
- Main Campus HR will review the NSP form upon receipt and prior to processing into Banner. They will be responsible for verifying the accuracy of the data on the form and ensuring there is no duplication of NSP payments. They will also review existing NSP payments already in Banner, and terminate, as needed.
- Finally, Main Campus HR is working with the Office of University Counsel to modify the current employment contract/addendum amendment process. Currently, when a portion of the coach's contract is changed, an amendment to the addendum is issued addressing only the terms that have changed. Going forward, HR recommends that rather than creating amendments addressing portions of an addendum, that a new addendum is created in its entirety whenever there is a change in the terms of employment.

#### Payroll Department

Payroll worked very closely with Athletics and the affected employees to insure the mistakes were corrected and the amounts were paid back within the time periods stated in this review. Amounts owed and payback arrangements were communicated and established as soon as the issues were discovered. It should be noted that these overpayments were exceptions from normal business practices, and do not reflect any larger issues in the system.

The overpayments in this document occurred in calendar years 2014, 2015, and 2016. The total federal reportable wages paid by UNM for the same calendar years were:

2014 - \$580,282,216.21  
2015 - \$607,751,810.10  
2016 - \$614,497,560.73

While errors have occurred, and will occur in the future with a payroll exceeding \$600 million annually, the overall error rate is low. Nevertheless, when overpayments do occur, we will continue to act vigorously in recovering improperly paid funds.

cc: Elizabeth Metzger, University Controller  
Michael Brown, Director, Human Resources Client Services



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**To:** Chaouki Abdallah, Interim President  
David Harris, Executive Vice President of Administration

**From:** Manu Patel, Director, Internal Audit *Manu*

**Date:** **Confidential Draft** August 18, 2017

**Subject:** Confidential Internal Investigation Report Regarding University of New Mexico (UNM) Athletics' Scotland Golf Tour.

**This is an investigation memorandum addressing the Athletics' Scotland Golf Tour. The full Athletics Administration Report will be issued at a later date.**

## BACKGROUND

The UNM Internal Audit Department initiated an investigation of the University of New Mexico Scotland Golf Tour ("Event") due to a management request. Mr. Paul Krebs, former UNM Vice President for Intercollegiate Athletics, authorized the payment for a golf tour event to Scotland for two UNM employees, one UNM Foundation employee (non-UNM employee), and three private donors. The Event took place from June 19, 2015 through June 25, 2015.

UNM Athletics and Anthony Travel Inc. ("ATI") executed an agreement on October 29, 2014 for the purpose of providing golf packages for the Event from June 19, 2015 through June 25, 2015. The agreement was for a total of 24 golf packages with per-package prices ranging from \$8,189 to \$10,299 based on occupancy. The University of New Mexico Lobo Club ("Lobo Club") paid a deposit of 25 percent, or \$49,500, of the total estimated Event package cost of \$198,000 due to ATI on October 31, 2014. The actual number of participants who attended the Event was twenty-three (23). Of the 23 participants in the Event, UNM Athletics paid \$16,378 for two Athletics Department employees; \$8,189 for one UNM Foundation employee (non-UNM employee), and \$24,567 for three non-UNM individuals ("Donors").

ATI refunded \$35,875 from the deposit to the Lobo Club on July 23, 2015, and UNM's Athletics Department transferred \$13,625 to the Lobo Club for the un-refunded portion of the deposit.

## **PURPOSE AND OBJECTIVES**

The investigation was initiated at management request to determine:

- Compliance with University policies and procedures by the Athletics Department in organizing the Event.
- Whether the costs incurred by the University for this Event were permissible.
- Completeness of documents submitted by the University in response to the Inspection of Public Records Act (IPRA) requests regarding the Event.

## **PROCEDURES**

Procedures performed are as follows:

- Discussions with key UNM employees.
- Review of service agreement between ATI and the University of New Mexico, including related written communications (i.e., e-mails).
- Review of Article IX, Section 14 (Anti-donation Clause) of the New Mexico Constitution.
- Review of applicable University Policies, including but not limited to, UAPs 1040: Fundraising, 2010: Contracts Signature Authority and Review, 4000: Allowable and Unallowable Expenditures, and other applicable policies and procedures.
- Search and review of the Athletics Department's operating ledger and the P-Card documents related to the Event.
- Review of documentation provided by the University in response to the Inspection of Public Records Act (IPRA) requests pertaining to the Event.

## **OBSERVATIONS AND RECOMMENDATIONS**

### Event Service Agreement

UNM Athletics and ATI executed an agreement on October 29, 2014 for the purpose of providing golf packages for the Event from June 19, 2015 through June 25, 2015. The service agreement does not appear to be for any game contract or for the rental of athletic facilities. The purpose of the Event, as indicated by UNM Athletics Management, was to conduct fundraising activities with UNM donors.

UAP 2010: Contracts Signature and Review, Section 4.11, Athletics, states, "*the Vice President for Athletics is authorized to sign all game contracts and contracts for rental of Athletic facilities.*"

UAP 2010: Contracts Signature Authority and Review, Section 5, Contract Review, states, "*Each contract must be carefully reviewed by the University employee initiating the contract and a University contract review officer. The University administrator with signature authority may designate additional review requirements for particular types of contracts, such as University Counsel for legal issues or Controller's review for budget.*"

UAP 2010: Contracts Signature and Review, Section 5.2, Contract Review Officer, states, *"Each administrator granted signature authority by this policy shall designate one or more contract review officers for contracts under their purview. All contract review officers shall be UNM employees."*

Although Paul Krebs, former Vice President for Intercollegiate Athletics, was authorized to sign all game contracts and contracts for rental of the Athletic facilities, the service agreement with ATI for the Scotland Golf Tour was not for either of these services. In addition, the contract did not obtain a second review or approval from a designated Contract Review Officer.

**Recommendation 1:** The Interim Director for Intercollegiate Athletics should work with the University Purchasing Office to strengthen internal controls to ensure all Athletics contracts are reviewed by a designated Contract Review Officer. Contracts initiated by the Interim Director for Intercollegiate Athletics should be reviewed and approved by the Executive Vice President for Administration or by Purchasing.

#### Fundraising

During an interview with KRQE News 13 published on May 2, 2017, the former Vice President for Intercollegiate Athletics stated, *"I saw this as an appropriate use of university money to generate support for athletics."*

*"The Scotland Golf Tour was not a vacation but rather a working business trip. Craig Neal, Kole McKamey and himself [sic] went along as fundraisers, using the relaxed social setting of the golf course to drum up donor support for athletic programs."*

*"The intent was to appeal to a small group of people and use this as a forum to raise money for local athletics."*

*"It's something that was given great thought and consideration. (It was) modeled after what other universities have done. The goal was to use it as a fundraiser and to generate a return on investment and I think we've done that."*

UAP 1040: Fundraising, Section 1, General states, *"...Individual units may engage in fundraising to further the University's mission. Fundraising by units should be coordinated with the UNM Foundation and, in the case of academic units, with their development officers."*

In addition, a Memorandum of Agreement signed on May 17, 2015 between the UNM Board of Regents, UNM Foundation, and UNM Lobo Club states, *"The Lobo Club agrees to provide solicitations, consultation, and other related services consistent with the University's plans, programs, and policies in efforts to maximize private gifts and donations from various sources for the benefit of University athletics programs. To that end, the Lobo Club shall plan, direct, coordinate, and conduct activities for raising funds from private sources to provide financial support to the University for the following purposes: (a) student athlete scholarships; (b) upgrading University Athletics facilities; and (c) current and long-term budgetary requirements of the athletics department. The Lobo Club will*

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*conduct fundraising programs, special events and any other programs initiated by the Vice President of Athletics/Director of Athletics and Lobo Club Board of Directors and approved by both parties to support such purposes."*

Although this Event should have been planned, directed, and coordinated through the UNM Lobo Club, UNM Athletics signed a service agreement with ATI for this Event. In addition, all fundraising costs related to this fundraising activity should have been charged to the UNM Lobo Club; however, the UNM Athletics Department paid for \$63,949 of the total costs of the Event which included:

- Golf packages for Paul Krebs (former Vice President for Intercollegiate Athletics), Craig Neal (Former Head Basketball Coach), Kole McKamey (Senior Associate Athletic Director for Development), and three private donors, totaling \$49,134 paid on a UNM P-Card.
- Roundtrip airfare for Paul Krebs from Newark, New Jersey to Edinburgh, Scotland for \$1,190 paid on a UNM P-Card.
- Transfer of funds to UNM Lobo Club for:
  - Reduction in tee times (golfers) from 24 to 16 for \$11,600
  - Two unrecoverable unused rooms at The Lodges at Turnberry Resort for \$2,025

The following schedule presents a summary of the Scotland Golf Trip costs paid with Athletics, University Foundation, and Lobo Club funds.

## Summary of Charges for Athletics Golf Tour to Scotland

Date *	Traveler Per Itinerary	Category	Index	Account Description	Amount
		Deposit/Trip to Ireland (Double Golf Package)			
1/12/2015	Paul Krebs	Golf Package)	Athletics - Admin	Out-of-State Travel	\$ 3,500.00
2/16/2015	Paul Krebs	Airline Tickets	Athletics - Admin	Out-of-State Travel	1,190.40
		Final Payment (Double Golf Package)			
3/6/2015	Paul Krebs	Package)	Athletics - Admin	Out-of-State Travel	4,689.00
5/8/2015	Kole McKamey	Double Golf Package	Athletics - Admin	Out-of-State Travel	8,189.00
5/8/2015	Craig Neal	Double Golf Package	Athletics - Admin	Out-of-State Travel	8,189.00
5/11/2015	Private Donor I	Double Golf Package	Athletics - Unrestricted	Out-of-State Travel	8,189.00
5/11/2015	Private Donor II	Double Golf Package	Athletics - Unrestricted	Out-of-State Travel	8,189.00
6/2/2015	Private Donor III	Double Golf Package	Athletics - Unrestricted	Out-of-State Travel	7,189.00
6/26/2015	Private Donor III	Double Golf Package	Karl Malone T.	Out-of-State Travel	1,000.00
9/4/2015	N/A	Lobo Club Deposit Reimbursement	Athletics - Contingency	Other Operating Costs	13,625.00
				<b>Athletics Department</b>	<b>\$ 63,949.40</b>
5/7/2015	Kole McKamey	Airline Ticket	UNM Foundation	Travel	\$ 1,819.90
5/26/2017	Kole McKamey	Airline Ticket	Lobo Club	Travel	521.01
				<b>UNM Foundation/Lobo Club</b>	<b>\$ 2,340.91</b>
				<b>Total</b>	<b>\$ 66,290.31</b>

Source: P-Card Reconciliations and Lobo Club

*\*Date reflects "Post Date" noted on Rita Chavez's "Transaction Log," and "Transaction Date" noted on Norma Bojorquez's "Transaction Log."*

**Recommendation 2:** The University President should:

- a) Require the Interim Director for Intercollegiate Athletics to strengthen Internal Controls over department disbursements to ensure expenditures are adequately documented for valid university business, supported by sufficient documents, properly reviewed, and approved by designated supervisor.
- b) Send formal written communication to all Athletics areas stating that fundraising activities should be planned and conducted through the University Foundation or UNM Lobo Club.
- c) Consult with the University of New Mexico Board of Regents and University Counsel to revise and update the May 17, 2015 Memorandum of Agreement between the Board of Regents, UNM Foundation, and the UNM Lobo Club to clearly define roles and responsibilities of all parties in the agreement, including which organization will be responsible for paying for fundraising expenses, collections of funds, accounting for funds, reporting structure (line) for staff, etc.

Anti-Donation Clause

The Lobo Club paid a deposit of 25 percent, or \$49,500, of the total estimated Event package cost of 198,000 to ATI on October 31, 2014. The actual number of participants who attended the Event was twenty-three (23). Of the 23 participants in this Event, the University Athletics department purchased and paid \$8,189 each for one UNM Foundation employee (non-UNM employee), and three non-UNM individuals (Donors). The total costs for four (4) non-UNM individuals for this Golf Tour Event was \$32,756. The payment of costs for this Event for private individuals from UNM funds may violate the Anti-Donation Clause of the New Mexico Constitution.

Kole McKamey, Associate Director for Development with UNM Foundation, indicated during discussions with Internal Audit staff that he was new to the job at the time of this Event, and he was asked by Paul Krebs to find individuals who would be interested in filling vacant spots for the Event.

In May 2017, the UNM Foundation received an anonymous gift in the amount of \$25,000. The UNM Foundation transferred \$25,000 on May 22, 2017 to the UNM Athletics department, and it was deposited in the same index (925011) used to pay for \$23,567 of the private donors' golf packages for the Event. The anonymous donor clarified to the University Foundation that when he gave the \$25,000 gift, he did so wanting to support the development and stewardship efforts of the Athletics department, including the revenue shortfalls of the trip to Scotland.

The N.M. Constitution, Article IX, Section 14 (Anti-Donation Clause) states: *“Neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation...”*



**Recommendation 3:** The University President should send formal written communication to all Athletics areas stating that University funds should not be expended for the benefit of non-university employees or non-university business purposes.

Documented Business Purpose

On January 12, 2015 and March 6, 2015, transactions were charged on the Athletics Executive Assistant's (Rita Chavez) P-Card for \$3,500 and \$4,689, respectively. The documented business purpose for these transactions are "Men's Bball Tourn" and "Trip w/MBBall." The actual business purpose for these transactions are payments for Paul Krebs' Scotland Golf Tour golf package. Rita Chavez, Athletics Executive Assistant, indicated that she had made a clerical error in documenting the business purpose when she was completing her P-Card reconciliation, as she assumed the UNM Men's Basketball team traveled to Scotland for a basketball tournament. She also stated that she was not instructed at any time to falsify the business purpose for the P-Card transactions. However, the payment information from ATI clearly indicates that the invoice was for the *University of New Mexico Scotland Golf Tour 2015, Double Golf Package*.

UAP 7205: Dishonest or Fraudulent Activities states, "*Dishonest or fraudulent activities include the following:*

- *Forgery or alteration of documents (such as checks, promissory notes, time sheets, independent contractor agreements, purchase orders, budgets)*
- *Misrepresentation of information on documents*
- *Misappropriation of funds, securities, supplies, or any other asset (including furniture, fixtures, or equipment)*
- *Improprieties in the handling or reporting of money transactions*
- *Authorizing or receiving payments for goods not received or services not performed*
- *Authorizing or receiving payments for hours not worked*
- *Any apparent violation of federal, state, or local laws*
- *Any similar or related activity"*

Internal Audit reviewed the P-Card "Transaction Log" and noted that every item description and documented business purpose on Rita Chavez's P-Card "Transaction Log" was inaccurate for the University of New Mexico Scotland Golf Tour. The following information was noted on the "P-Card Transaction Log" for the Executive Assistant and former Lobo Club Administrative Assistant's (Norma Bojorquez) P-Card Reconciliations.

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<b>Date *</b>	<b>Vendor</b>	<b>Item Description</b>	<b>Business Purpose</b>	<b>Amount</b>	<b>Cardholder</b>
1/12/2015	Anthony Travel	Deposit/Trip to Ireland	Men's Bball Tourn	\$ 3,500.00	Rita Chavez
2/16/2015	Anthony Travel	Airline Tickets	Trip w/MBBall	1,190.40	Rita Chavez
3/6/2015	Anthony Travel	Final Payment	Trip w/MBBall	4,689.00	Rita Chavez
5/8/2015	Anthony Travel	Airline Tickets Scotland	VP Travel	8,189.00	Rita Chavez
5/8/2015	Anthony Travel	Airline Tickets Scotland	AD major gits[sic] Travel	8,189.00	Rita Chavez
5/11/2015	Anthony Travel	Double Golfer Package	Donor Cultivation for MBBall	8,189.00	Norma Bojorquez
5/11/2015	Anthony Travel	Double Golfer Package	Donor Cultivation for MBBall	8,189.00	Norma Bojorquez
6/2/2015	Anthony Travel	Double Golfer Package	Donor Cultivation for MBBall	8,189.00	Norma Bojorquez
				<b>\$ 50,324.40</b>	

Source: P-Card Transaction Logs

*\*Date reflects "Post Date" noted on Rita Chavez's "Transaction Log," and "Transaction Date" noted on Norma Bojorquez's "Transaction Log."*

Internal Audit could not determine if the inaccurate item descriptions and business purposes on the P-Card "Transaction Logs" was intentional or not; however, an inaccurate item description and business purpose was documented on four separate P-Card "Transaction Logs" prepared by Rita Chavez. Documentation provided by ATI was not adequately reviewed by the Athletics Executive Assistant to ensure accurate documented business purposes for the Scotland Golf Tour. In addition, the former Vice President for Intercollegiate Athletics did not perform an adequate review of his Executive Assistant's P-Card reconciliations.

**Recommendation 4:** The Athletics Executive Assistant should:

- a) Complete the online P-Card training course.
- b) Perform a thorough review of documentation for all charges made to her P-Card, and ensure payments are accurately reported, and are consistent with the supporting documentation for the goods and/or services purchased.

The Interim Director for Intercollegiate Athletics should perform a detailed review of the Executive Assistant's P-Card transactions to ensure documentation is complete and information is accurately reported.

**New Mexico Inspection of Public Records Act (IPRA)**

The UNM Custodian of Public Records received separate IPRA requests from Mr. Larry Barker, KRQE, and Mr. Geoff Grammer, Albuquerque Journal, regarding the Scotland Golf Tour. The UNM Athletics Human Resources (HR) Administrator 3 is designated for gathering all records pertaining to IPRA requests. The HR Administrator 3 submitted an e-mail to the Vice President for Intercollegiate Athletics, Men's Basketball Head Coach, Professional Consultant for Athletics Administration, and Athletics Financial Analyst to provide all records in response to the IPRA request.

In addition, the Athletics HR Administrator 3 did not e-mail the IPRA request to the P-Card holders that had the Scotland Gold Tour expenses charged to their P-Card. Consequently, airfare

documentation and golf packages for three private donors were not initially submitted by the UNM Custodian of Public Records, as required by UAP 2300: Inspection of Public Records.

The New Mexico Inspection of Public Records Act (IPRA), section 14-2-5: Purpose of the Act states, *“Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.”*

UAP 2300: Inspection of Public Records, Section 4 states, *“The University Custodian of Public Records (the "Custodian"), is the official custodian of public records for the University, including the Health Sciences Center and the branch campuses. Information on the University's Public Records website (<http://publicrecords.unm.edu/>) explains how to contact the Custodian.*

*The Custodian is responsible for:*

- *responding to all requests to inspect public records;*
- *determining whether requested records exist and where they are located, and working with the Office of University Counsel about any apparent legal issues related to producing records for inspection and possible denials of requests;*
- *providing proper and reasonable opportunities to inspect public records, including assembling the records as appropriate;*
- *scheduling facilities for inspection of public records during usual business hours;*
- *consulting with counsel for the University or for STC.UNM regarding any requests that might involve disclosure of trade secrets or attorney-client privileged information related to intellectual property; and*
- *maintaining a log of all requests that include the date and nature of the request, a copy of the request, any correspondence relating to the request, date of the response, copies of all documents made available in the response, and any other pertinent information.*

*Only the Custodian, or a designee of the Custodian, may respond to requests for public records, except for requests for medical records or student records as specified in Section 2. herein.”*

UAP 2300: Inspection of Public Records, Section 5, further states, *“Any University employee who receives a request for inspection of public records shall promptly forward the request to the Custodian and notify the requester that the request has been forwarded.”*

The following is a timeline of requests and responses.

Larry Barker's Request:

On February 28, 2017, Mr. Larry Barker, KRQE, requested the following:

- Any and all re-imbursements, loans or other compensation paid to any **University of New Mexico employee** from any and all sources relating to the June 2015 "Scotland Golf Tour" including, but not limited to, Paul Krebs, Craig Neal, Tim Cass, airfare, golf expenses, hotels, cab fares, meals, alcohol, Anthony Travel, or tours.
- All emails, expense reports, memos, invoices, letters, vouchers, requests, approvals, or other documentation relating to the June 2015 "Scotland Golf Tour" participation by Paul Krebs, Craig Neal, Tim Cass or any other UNM employee who went on the trip as well as any family members participating.
- A roster list of participants on the June 2015 "Scotland Golf Tour."

Public records provided to Mr. Barker included all Scotland Golf Tour documentation for UNM employees, except for the Vice President for Intercollegiate Athletics' airfare for \$1,190. The UNM Custodian of Public Records also redacted this transaction from the Athletics operating ledger index 925018 – Athletics Admin, account 3820 – Out of State Travel, which was provided to Mr. Barker.

Geoff Grammer's Request:

On April 13, 2017, Mr. Geoff Grammer, Albuquerque Journal, requested:

- Documents showing the travel, lodging and other costs associated with a trip to Scotland paid for by UNM in the summer of either 2015 or 2016. **The trip included, but was not limited to, athletics department employees.** In addition to reviewing all the expenses for this trip UNM paid for, I would like a full list of the travel party on the trip. If there were members of the travel party that paid their own way, can that be noted?

The UNM Custodian of Public Records was on leave the business day before a response was due to this request. UNM Legal Counsel was contacted by the Sports Information Director and asked whether the Sports Information Director could provide Mr. Grammer with the same records provided to Mr. Barker, as Mr. Grammer indicated that he had asked to receive his response prior to the due date. UNM Legal Counsel advised that the records could be provided to Mr. Grammer, and that the Custodian of Public Records would be instructed to follow up with Mr. Grammer on the next business day, which was the actual due date for the IPRA response. The same documentation that was provided to Mr. Barker was also provided to Mr. Grammer. Internal Audit determined that records of all Scotland Golf Trip expenses were not provided for this request, considering the Vice President for Intercollegiate Athletics' airfare, and the golf packages for the three private donors were not included.

May 2, 2017 the Custodian of Public Records submitted an e-mail to Mr. Grammer stating, *"It was my understanding that the UNM Athletics Department provided existing responsive public records to you during my absence. Please let me know as soon as possible if that is not the case. Because the documents were provided by Athletics and not through IPRA, the redaction explanations weren't given."*

May 24, 2017 Mr. Grammer, Albuquerque Journal, submitted an e-mail stating: *"I received information that was heavily redacted, which it appears now included redacted information that would have included UNM paying for other trips of three donors (Darin Davis, Raleigh Gardenhire and Paul Gibson, please correct if those are not the right donors)."*

May 31, 2017, John Rodriguez, UNM Public Records, responded: *"After learning that documents responsive to a separate, similar request were provided to you directly from Athletics, on May 2, 2017 I responded stating, '...Because the documents were provided informally by Athletics and not through IPRA, the redaction explanations for these documents were not included. . .'"*

On May 31, 2017, the UNM Custodian for Public Records submitted a new response, which included all public records associated with the Scotland Golf Tour. Documentation for the total costs of \$64,949.40 were provided to Mr. Barker and Mr. Grammer.

Internal Audit determined that the omission of this expense appears to be unintentional. Failure to provide all documentation for the Scotland Golf Tour was due to miscommunication between the UNM Athletics department and the UNM Custodian for Public Records, and documentation was submitted to the requesters directly from the Athletics Department.

All Scotland Golf Tour documentation was subsequently provided to Mr. Barker and Mr. Grammer. According to the Athletics Department, an official Scotland Golf Trip roster was never generated by UNM Athletics; therefore, there was no such public record available to provide it to Mr. Barker and Mr. Grammer.

**Recommendation 5:** Responses to IPRA requests should only be submitted by the UNM Custodian of Public Records. Requests received by the Athletics Department should be forwarded to the Custodian of Public Records for response.

In addition, the Athletics Human Resources Administrator 3 should:

- a) Carefully review all documentation collected in response to IPRA requests.
- b) Review documentation with key officials associated with the request to ensure requested information is complete and accurate.
- c) Submit IPRA notices to all employees that may have knowledge of the activity/event, including P-Cardholders.

Athletics Department Business Functions

UNM Athletics adheres to University policies and procedures and has established internal controls in place. However, established internal controls are not always followed, resulting in inaccurate reporting of financial transactions and non-compliance with University policies and procedures. Internal Audit noted the following during investigation procedures for the Scotland Golf Tour.

- P-Card Reviews – The documented item descriptions and business purposes for the Scotland Golf Tour P-Card transactions on the Executive Assistant's P-Card "Transaction Log" were clearly inaccurate for all four months (February, March, April, and June 2015) with Scotland Golf Tour transactions. Although P-Card reconciliations had three levels of review by the Vice President for Intercollegiate Athletics, Athletics Financial Analyst, and the P-Card office, the inaccuracies of the reporting for Scotland Golf Tour transactions were not detected.
- Account Coding – P-Card transactions are recorded to the Out-of-State account code (3820) in the Banner Accounting System by default. Cardholders are then required to reallocate P-Card transactions to the appropriate account code. The P-Card transactions for the Scotland Golf Tour were not reallocated to the Foreign Travel account code (3840), which would be the appropriate account code for the Scotland Golf Tour.
- Approval for Foreign Travel – UAP 4030: Travel, section 4.2, International Travel states, "*Travelers on international business should receive the prior approval of their dean, director, department head, PI, or designate. In the case of travel by a dean, director, department head, or PI, the approval must be made by the person who is in a position of authority over the traveler. Where the traveler has continuing business overseas, such approval may cover multiple trips. Traveling on restricted contract and grant funding may require prior written approval for each international trip from the sponsoring agency.*"

The Vice President for Intercollegiate Athletics did not obtain prior approval from his supervisor for foreign travel to Scotland for the Scotland Golf Tour.

The above issues are indicative of a lack of financial management and inadequate business oversight. The Athletics business office currently employs three full-time staff, which includes the Financial Analyst and two Fiscal Service Techs, and one Temp Fiscal Tech. The Business Office has been without a Chief Financial Officer (CFO) since July 8, 2016. This key financial position was also vacant from June 2012 through August 2015. The lack of financial management and resources increases the risk of unallowable purchases, inaccurate financial reporting, and non-compliance with state laws and regulations and University policies and procedures.

**Recommendation 6:** The Interim Director for Intercollegiate Athletics should:

- a) Consider reorganization and adding additional resources to the business office. The hiring of an experienced Chief Financial Officer should be a priority to provide strong leadership and oversight for the Athletics' business office functions.
- b) Ensure all foreign travel is preapproved by the appropriate UNM supervisory employee.

**This is an investigation memorandum addressing the Athletics' Scotland Golf Tour. The full Athletics Administration Report will be issued at a later date.**