CONFLICT OF INTEREST

CALIFORNIA STATE UNIVERSITY,
FULLERTON

Audit Report 14-18
May 30, 2014

Members, Committee on Audit

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## CONTENTS

Executive Summary ...................................................................................................................................... 1

Introduction ................................................................................................................................................... 2
  Background ............................................................................................................................................... 2
  Purpose ...................................................................................................................................................... 4
  Scope and Methodology ............................................................................................................................ 5

## OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

General Environment .................................................................................................................................... 6

Designated Position Identification ................................................................................................................ 6
APPENDICES

APPENDIX A: Personnel Contacted
APPENDIX B: Campus Response
APPENDIX C: Chancellor’s Acceptance

ABBREVIATIONS

Act                               Political Reform Act of 1974
CCR                               California Code of Regulations
Code                              California State University Conflict-of-Interest Code
COI                               Conflict of Interest
CSU                               California State University
EC                                 Education Code
FPPC                              Fair Political Practices Commission
HR                                 Human Resources
OAAS                              Office of Audit and Advisory Services
EXECUTIVE SUMMARY

As a result of a systemwide risk assessment conducted by the Office of Audit and Advisory Services (OAAS) during the last quarter of 2013, the Board of Trustees, at its January 2014 meeting, directed that Conflict of Interest (COI) be reviewed. The OAAS has never reviewed COI as a stand-alone audit.

We visited the California State University, Fullerton campus from March 17, 2014, through April 17, 2014, and audited the procedures in effect at that time.

In our opinion, the fiscal, operational, and administrative controls for COI activities in effect as of April 17, 2014, taken as a whole, were sufficient to meet the objectives stated in the “Purpose” section of this report.

As a result of changing conditions and the degree of compliance with procedures, the effectiveness of controls changes over time. Specific limitations that may hinder the effectiveness of an otherwise adequate system of controls include, but are not limited to, resource constraints, faulty judgments, unintentional errors, circumvention by collusion, and management overrides. Establishing controls that would prevent all these limitations would not be cost-effective; moreover, an audit may not always detect these limitations.

The following summary provides management with an overview of conditions requiring attention. Areas of review not mentioned in this section were found to be satisfactory. Numbers in brackets [ ] refer to page numbers in the report.

GENERAL ENVIRONMENT [6]

The campus had not documented a written designation from the president to the campus conflict-of-interest filing officer.

DESIGNATED POSITION IDENTIFICATION [6]

The campus did not have procedures to determine whether consultants contracted through the contracts and procurement department were in a designated position.
INTRODUCTION

BACKGROUND

Conflict of interest occurs when professional duties and personal interests intersect, putting a person in a position to personally benefit from a decision made as part of his or her job duties. As public employees, California State University (CSU) employees are subject to various conflict-of-interest-related laws and regulations.

The primary California legislative document governing conflicts of interest is the Political Reform Act of 1974 (the Act), which prohibits public employees from making, participating in making, or in any way attempting to use their official position to influence a governmental decision in which they know, or have reason to know, they have a financial interest. This applies to all CSU employees. Primary responsibility is placed upon the individual employee to be familiar with the requirements of the Act. In addition, if CSU employees have a personal financial interest in a university decision, they are required to publicly announce the financial interest and disqualify themselves from involvement in the decision. CSU employees should also be sensitive to the appearance of conflict of interest when participating in university decisions, even when a true conflict does not exist.

The Act also requires the CSU to adopt a formal conflict-of-interest code (the Code) that identifies and designates certain employees who are most likely to be involved in university decision-making to file an annual statement of economic interests.

The Fair Political Practices Commission (FPPC) is the state agency responsible for reviewing and approving the Code. It is also the enforcement agency to which violations of the Act are reported. The FPPC last approved the CSU’s Code in 2006; in August 2007, the CSU forwarded an updated Code to the FPPC for review and approval. This Code is still under review, and the CSU systemwide Office of Human Resources and Office of General Counsel have been working with the FPPC to complete the review and approval process. Until the Code is approved, the CSU follows interim disclosure requirements codified in California Code of Regulations (CCR), Title 2, Division 6, §18734.

In addition to filing an annual statement of economic interests, employees designated by the Code must complete ethics training as required by Education Code (EC) §89500.7. An employee must complete this training within six months of becoming designated, and every two years thereafter.

CSU policies relating to the Code and designated employees include the following:

- Coded memorandum Human Resources (HR) 2013-02, Annual Filing Requirements, dated February 28, 2013, provides information on the annual disclosure statement filing requirements for designated employees. Coded memorandum HR 2010-01, Conflict of Interest Update – Designated Positions Pending FPPC Approval – Interim Disclosure, dated January 12, 2010, discusses the interim disclosure requirements for consultants and employees in newly designated positions that are pending FPPC approval.

Disclosures, dated November 15, 2010, clarifies that consultants and employees in newly designated positions pending FPPC approval are also required to complete ethics training.

- The Office of General Counsel Conflict of Interest Handbook, last updated in February 2013, provides critical information on key laws, regulations, and court decisions relating to CSU employees and conflicts of interest.

Although most gifts received by CSU employees in designated positions are subject to reporting requirements and limitations, some gifts that benefit employees may be considered gifts to the CSU when they are used for official CSU business. These are typically travel gifts, including accommodations and food associated with the travel. CCR, Title 2, Division 6, §18944.2 defines such gifts and provides procedural and reporting requirements. Coded memorandum HR 2008-19, Conflict of Interest – FPPC Revised Regulation Concerning Gifts to an Agency, dated November 17, 2008, provides guidance to campuses regarding these types of gifts.

Other examples of codes and/or statutes that govern conflict of interest in the CSU are discussed in the Office of General Counsel Conflict of Interest Handbook and include the following:

- Government Code §1090 et seq. prohibits state employees from having a financial interest in any contract they make in their official capacity. Integrated California State University Administrative Manual §5302.0, Formal Bidding for Personal Property, §5402.0, Formal Solicitation for Services, and §5502.0, Formal Solicitations for Information Technology Goods and Services, effective April 28, 2008, require all CSU employees involved in a formal solicitation process to complete conflict-of-interest and confidentiality statements, which are retained as part of the contract file.

- EC §89006 prohibits CSU employees from using confidential information available by virtue of their employment for private gain.
PURPOSE

Our overall audit objective was to ascertain the effectiveness of existing policies and procedures related to conflicts of interest and to determine the adequacy of controls that ensure compliance with relevant governmental regulations, Trustee policy, Office of the Chancellor directives, and campus procedures.

Within the overall audit objective, specific goals included determining whether:

- Administration of the conflict-of-interest program is well defined and includes clear lines of organizational authority and responsibility and documented delegations of authority.
- Policies and procedures related to the conflict-of-interest program are current, comprehensive, and effectively distributed.
- Designated employees and employees involved in the administration of the conflict-of-interest program are adequately trained and informed of their duties.
- Processes to identify designated positions on the campus are adequate to capture all positions involved in the making, or that participate in the making, of decisions that may foreseeably have a material effect on the financial interests of the CSU.
- Administration of conflicts of interest is adequate to ensure that employees do not have personal financial interests in CSU contracts.
- Conflict-of-interest disclosure statements are adequately tracked and monitored to ensure compliance with state and CSU requirements, and security and retention of disclosure forms is adequate.
- Review and management of disclosure statements is adequate to ensure compliance with state and CSU requirements.
- Job descriptions appropriately support disclosure requirements for designated positions.
- Controls over recruitment and hiring are adequate to ensure that potential candidates are notified of conflict-of-interest reporting requirements.
- Processes are adequate to ensure that gifts to agency are properly identified and reported according to state and CSU requirements.
SCOPE AND METHODOLOGY

The proposed scope of the audit as presented in Audit Agenda Item 4 of the January 28 and 29, 2014, meeting of the Committee on Audit stated that Conflict of Interest (COI) includes the activities of all CSU designated people who make, or participate in the making of, decisions that may foreseeably have a material effect on any financial interest of the CSU. Proposed audit scope could include, but was not limited to, review of the process for identification of designated positions; monitoring, tracking, and review of disclosures related to conflicts of interest, such as research disclosures; faculty and CSU designated officials reporting; employee/vendor relationships; ethics training; and patent and technology transfer.

Our study and evaluation were conducted in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors and included the audit tests we considered necessary in determining whether fiscal, operational, and administrative controls are in place and operative. This review emphasized, but was not limited to, compliance with federal and state regulations and guidance, Board of Trustee policies, and Office of the Chancellor and campus policies, letters, and directives. The audit focused on procedures in effect from January 1, 2012, through April 15, 2014.

We focused primarily on the internal administrative, compliance, and operational controls over COI activities. We did not focus on research disclosures in this audit, as these are routinely reviewed in sponsored programs and auxiliary audits. Specifically, we reviewed and tested:

- Administration of the COI program, including defined responsibilities, current policies and procedures, and adequate training.
- Processes to identify and review designated positions on campus.
- Tracking, monitoring, and review of conflict-of-interest disclosure statements.
- Solicitation and contracting processes.
- Identification and reporting of gifts to agency.
OBSERVATIONS, RECOMMENDATIONS, AND CAMPUS RESPONSES

GENERAL ENVIRONMENT

The campus had not documented a written designation from the president to the campus conflict-of-interest filing officer.

Executive Order 295, Designation of Filing Officers Under the California State University and Colleges Conflict of Interest Code, dated July 26, 1978, states, in part, that the filing officers for designated employees in the California State University (CSU) shall be as follows: For officers or employees, except the president, occupying designated positions on a campus of the CSU, the president of the campus or his or her designee shall be the filing officer.

The director of employment services stated that the designation for the conflict-of-interest filing officer was documented but had been misplaced due to human error.

The lack of a written designation increases the risk of misunderstandings related to oversight of conflicts of interest and noncompliance with CSU and governmental requirements, and compromises accountability.

Recommendation 1

We recommend that the campus document a written designation from the president to the campus conflict-of-interest filing officer.

Campus Response

We concur. The campus will develop a written designation from the president to the campus conflict-of-interest filing officer.

Anticipated completion date: July 31, 2014

DESIGNATED POSITION IDENTIFICATION

The campus did not have procedures to determine whether consultants contracted through the contracts and procurement department were in a designated position.

Coded memorandum Human Resources 2010-01, Conflict of Interest Update – Designated Positions Pending FPPC Approval – Interim Disclosure, dated January 12, 2010, states that consultants in newly created positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest shall file an interim disclosure.

The director of employment services stated that the contracts and procurement department was unaware that it was required to report the contracting of consultants because, due to oversight, a contracts and procurement department policy had not been formalized.
A lack of effective procedures to determine whether consultants are in a designated position increases the risk of noncompliance with CSU and governmental requirements.

**Recommendation 2**

We recommend that the campus develop and implement procedures to determine whether consultants contracted through the contracts and procurement department are required to file an interim disclosure.

**Campus Response**

We concur. The campus will develop and implement procedures to determine whether consultants contracted through the contracts and procurement department are required to file an interim disclosure.

Anticipated completion date: November 30, 2014
APPENDIX A:
PERSONNEL CONTACTED

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
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<tbody>
<tr>
<td>Mildred Garcia</td>
<td>President</td>
</tr>
<tr>
<td>John Beisner</td>
<td>Executive Director, Risk Management</td>
</tr>
<tr>
<td>Denise Bell</td>
<td>Director, Office of Sponsored Programs, Auxiliary Services Corporation</td>
</tr>
<tr>
<td>Adriana Bitoun</td>
<td>Senior Director, Advancement Services</td>
</tr>
<tr>
<td>Michele Cesca</td>
<td>Associate Vice President, Central Development</td>
</tr>
<tr>
<td>Jose Cruz</td>
<td>Provost and Vice President, Academic Affairs</td>
</tr>
<tr>
<td>Amir Dabirian</td>
<td>Vice President, Information Technology</td>
</tr>
<tr>
<td>Laurinda Fuller</td>
<td>Director of Internal Audit</td>
</tr>
<tr>
<td>Tara Garcia</td>
<td>Executive Director, Advancement Operations</td>
</tr>
<tr>
<td>Maria Gonzalez</td>
<td>Classification and Compensation Manager</td>
</tr>
<tr>
<td>Silvia Gonzalez</td>
<td>Compensation Specialist and Conflict-of-Interest Filing Officer</td>
</tr>
<tr>
<td>Robin Graboyes</td>
<td>Director of Employment Services</td>
</tr>
<tr>
<td>Donald Green</td>
<td>Director of Contracts and Procurement</td>
</tr>
<tr>
<td>Lea Jarnagin</td>
<td>Associate Vice President, Student Affairs</td>
</tr>
<tr>
<td>Berenecea Johnson Eanes</td>
<td>Vice President, Student Affairs</td>
</tr>
<tr>
<td>Danny Kim</td>
<td>Interim Vice President, Administration and Finance/Chief Financial Officer</td>
</tr>
<tr>
<td>Perrin Reid</td>
<td>Associate Vice President, Human Resources, Diversity and Inclusion</td>
</tr>
<tr>
<td>Paulina Tagle</td>
<td>Director, Office of Grants and Contracts</td>
</tr>
<tr>
<td>Nashaundra Williams</td>
<td>Documents and Records Analyst, Human Resources</td>
</tr>
<tr>
<td>Sally Yassine</td>
<td>Associate Director of Contracts and Procurement</td>
</tr>
</tbody>
</table>
June 11, 2014

Larry Mandel, Vice Chancellor and Chief Audit Officer
Office of Audit and Advisory Services
The California State University
401 Golden Shore, 4th Floor
Long Beach, CA 90802-4210

SUBJECT: Campus Responses to Recommendations of Conflict of Interest Audit, Report 14-18

Dear Mr. Mandel:

Please find enclosed California State University, Fullerton’s official response to the two (2) recommendations contained in the Conflict of Interest Audit, Report 14-18.

We would like to thank the Vice Chancellor and Chief Audit Officer and his staff for conducting the audit in a professional manner and identifying areas where our procedures or internal controls could be strengthened. The campus is committed to addressing the issues identified in the audit report.

If you have any questions or require additional information, please contact Laurinda Fuller, Director of Internal Audit, at (657) 278-4697 or lfuller@fullerton.edu.

Sincerely,

Danny Kim
Vice President Administration & Finance/
Chief Financial Officer

Attachment

cc: Mildred Garcia, President
    Lori Gentles, Vice President Human Resources, Diversity and Inclusion
    Laurinda L. Fuller, Director Internal Audit
CONFLICT OF INTEREST

CALIFORNIA STATE UNIVERSITY,
FULLERTON

Audit Report 14-18

GENERAL ENVIRONMENT

Recommendation 1

We recommend that the campus document a written designation from the president to the campus conflict-of-interest filing officer.

Campus Response

We concur. The campus will develop a written designation from the president to the campus conflict-of-interest filing officer.

Anticipated completion date: July 31, 2014

DESIGNATED POSITION IDENTIFICATION

Recommendation 2

We recommend that the campus develop and implement procedures to determine whether consultants contracted through the contracts and procurement department are required to file an interim disclosure.

Campus Response

We concur. The campus will develop and implement procedures to determine whether consultants contracted through the contracts and procurement department are required to file an interim disclosure.

Anticipated completion date: November 30, 2014
June 25, 2014

MEMORANDUM

TO: Mr. Larry Mandel
    Vice Chancellor and Chief Audit Officer

FROM: Timothy P. White
      Chancellor

SUBJECT: Draft Final Report 14-18 on Conflict of Interest,
         California State University, Fullerton

In response to your memorandum of June 25, 2014, I accept the response as
submitted with the draft final report on Conflict of Interest, California State
University, Fullerton.

TPW/amd