

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2017-048
November 2016

STATE UNIVERSITY SYSTEM BOARD OF GOVERNORS



Sherrill F. Norman, CPA
Auditor General

Board of Governors and Chancellor

During the period July 2014 through May 2016, Marshall Criser, III, served as Chancellor of the Board of Governors and the following individuals served as Members of the Board of Governors:

Morteza "Mori" Hosseini, Chair
Thomas G. Kuntz, Vice Chair
Ned C. Lautenbach
Richard A. "Dick" Beard, III
Dr. Matthew M. Carter, II
Stefano Cavallaro to 5-31-15 ^a
Manoj Chopra to 8-3-14 ^b
Dean C. Colson
Daniel Doyle, Jr.
Patricia L. Frost

Tonnette Graham from 6-1-15 ^a
H. Wayne Huizenga, Jr.
Ned C. Lautenbach
Alan M. Levine
Wendy S. Link
Edward A. Morton
Katherine M. Robinson from 8-4-14 ^b
Pam Stewart ^c
Norman D. Tripp
Elizabeth Webster to 3-19-15 ^d

^a Chair of the Florida Student Association (equivalent to Florida Student Association President referred to in Article IX, Section 7(d) of the State Constitution).

^b Chair of the Advisory Council of Faculty Senates.

^c Commissioner of Education.

^d Board member resigned on 3-19-15, and position remained vacant through 6-30-15.

The team leader was Cheryl B. Buchanan, CPA, and the audit was supervised by Karen L. Revell, CPA.

Please address inquiries regarding this report to Jaime N. Hoelscher, CPA, Audit Supervisor, by e-mail at jaimehoelscher@aud.state.fl.us or by telephone at (850) 412-2868.

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STATE UNIVERSITY SYSTEM BOARD OF GOVERNORS

SUMMARY

This operational audit of the Board of Governors (BOG) for the State University System (SUS) focused on selected BOG processes and administrative activities and included a follow-up on findings noted in our report No. 2013-024. Our operational audit disclosed the following:

Finding 1: The BOG needs to enhance regulations to help State universities establish uniform standards that conform to statutory requirements. A similar finding was noted in our report No. 2013-024.

BACKGROUND

Pursuant to Article IX, Section 7(d) of the State Constitution, the Board of Governors (BOG) has the duty to operate, regulate, control, and be fully responsible for the management of the State University System. The BOG is composed of 17 members, including 14 citizen members who are appointed by the Governor, subject to confirmation by the Senate, and serve 7-year staggered terms; the Commissioner of Education; the Chair of the Advisory Council of Faculty Senates, or the equivalent; and the President of the Florida Student Association, or the equivalent.

The BOG establishes the powers and duties of the University Boards of Trustees (UBOTs). The UBOTs are responsible for setting university policies, which provide governance in accordance with State law and BOG regulations.

This operational audit focused on selected BOG processes and administrative activities and included a follow-up on findings noted in our report No. 2013-024.

FINDING AND RECOMMENDATION

Finding 1: Guidance and Oversight Function

Pursuant to the State Constitution,¹ the Board of Governors (BOG) has the duty to operate, regulate, control, and be fully responsible for the management of the State University System (SUS). State law² authorizes the BOG to regulate the SUS and adopt a regulation development procedure for the BOG and the University Boards of Trustees (UBOTs) to use in implementing their constitutional duties and responsibilities. Pursuant to this authority, the BOG adopted regulations to delegate powers and duties to the UBOTs so that they have the powers and duties necessary and appropriate for the direction, operation, management, and accountability of each State university. However, our review disclosed certain regulations related to the remuneration of university presidents and administrative employees, sponsored research, anti-hazing policies, student codes of conduct, and purchasing practices that the

¹ Article IX, Section 7(d) of the State Constitution.

² Section 1001.706, Florida Statutes.

BOG could clarify to help State universities establish uniform standards and, as applicable, conform to statutory requirements.

Remuneration of Presidents and Administrative Employees

State law³ stipulates that a State university administrative employee may not receive more than \$200,000 in annual remuneration⁴ from appropriated State funds. According to State law,⁵ this limitation does not apply to university teaching faculty or medical school faculty or staff.

BOG regulations⁶ define a university teaching faculty member as an employee who provides direct instructional services to students or provides indirect support in the instruction of students by establishing curriculum and other requirements involved in teaching students, including classroom activities, research laboratories, co-curricular activities or service activities in which students participate. The regulations give specific examples of employees who would be exempt from the statutory remuneration limitation, such as provosts, deans, professors, lecturers, librarians, curators, scholars, and scientists. Notwithstanding BOG regulations, and BOG constitutional authority⁷ to establish such regulations, the BOG may not promulgate rules that are contradictory to statutory provisions enacted by the Legislature.

State law⁸ specifically states that the requirements for limiting remunerations for university presidents and administrative employees is not subject to any other rule to the contrary, and clearly contemplates that the limitation would not apply to teaching faculty but would otherwise apply to employees other than medical school staff. Because university teaching faculty, as defined by BOG regulations, includes those who provide indirect support in the instruction of students by establishing curriculum and other requirements involved in teaching students, the regulations may undercut the dichotomy between administrators and teaching faculty contemplated by State law and allow universities to use public funds to pay annual remunerations in excess of \$200,000, contrary to State law.

Sponsored Research

State law⁹ requires the BOG to develop guidelines related to divisions of sponsored research, pursuant to provisions of State law,¹⁰ to serve the function of administration and promotion of the programs of research. According to State law,¹¹ each State university shall submit to the BOG a report of activities of each division of sponsored research together with an estimated budget for the next fiscal year. Although BOG regulations¹² require each university to include in the annual budget, among other things, the actual and estimated fiscal year sponsored research revenues, expenditures, and positions for functions that are supported by foundations, various State and Federal agencies, local units of governments,

³ Section 1012.976(2), Florida Statutes.

⁴ Remuneration is defined by Section 1012.976(1)(c), Florida Statutes, as salary, bonuses, and cash-equivalent compensation paid to a State university administrative employee for work performed, excluding health insurance and retirement benefits.

⁵ Section 1012.976(3), Florida Statutes.

⁶ BOG Regulation 9.006, *Remunerations of Presidents and Administrative Employees*.

⁷ Article IX, Section 7(d) of the State Constitution.

⁸ Section 1012.976(2), Florida Statutes.

⁹ Section 1001.706(3)(b), Florida Statutes.

¹⁰ Section 1004.22, Florida Statutes.

¹¹ Section 1004.22(6)(a), Florida Statutes.

¹² BOG Regulation 9.007, *State University Operating Budgets*.

businesses, and industries, there is no other policy or procedure guidance or regulations for operating university-sponsored research programs. For the 2014-15 fiscal year, State universities reported approximately \$1.8 billion in sponsored research awards, and \$1.6 billion in expenditures from Federal, State, and other sources.

In response to our inquiries, BOG personnel indicated that BOG regulations¹³ and State law¹⁴ authorize the UBOTs to create divisions of sponsored research and to establish policies regulating the administration and operation of the divisions of sponsored research. In addition, BOG personnel indicated that these research programs are considered unique depending on the topic, deliverable, and university and, as such, each individual university should create and develop appropriate policies and procedures within the structure provided by the research program itself. However, absent BOG guidance for sponsored research activities, the BOG has limited assurance that university-sponsored research activities comply with applicable laws, rules, and regulations and are consistent with the mission and long-term plans of the SUS. Such guidance should include, for example, restrictions on the use of research funds; procedures for negotiating, entering into, and executing research contracts; procedures for soliciting and accepting research grants and donations; and procedures over the collection of fees and donations. A similar finding was noted in our report No. 2013-024.

Anti-Hazing Policies

Pursuant to BOG regulations,¹⁵ the BOG delegated to the UBOTs the responsibility for developing anti-hazing policies, penalties, and enforcements. In the fall of 2011, BOG personnel surveyed each of the State universities about the universities' policies and procedures designed to create an environment of respect for all students as well as hazing incident reporting mechanisms and hazing prevention strategies. In March 2012, BOG personnel presented the results of the survey to the BOG Academic and Student Affairs Committee (Committee). In June 2013, BOG personnel updated the survey and the updated survey results showed that all 11 universities had hazing prevention strategies that incorporated reporting systems operating 24 hours a day to receive reported hazing incidents. However, the results also showed that 7 universities¹⁶ hazing prevention strategies excluded professional staff development and training, 3 universities¹⁷ did not have an established anti-hazing Web site, and 2 universities¹⁸ did not have an anti-hazing educational program for student organizations. As of June 2016, the updated survey results had not been presented to the Committee.

BOG personnel indicated that the BOG Assistant Vice Chancellor of Academic and Student Affairs is the BOG liaison with the SUS Council for Student Affairs (Council), which consists of the Vice Presidents of Student Affairs for all universities, and the Council sponsors annual Anti-Hazing Summits, coordinates efforts across the SUS to reinforce the message that the SUS has zero tolerance for hazing activities and

¹³ BOG Regulation 1.001, *University Board of Trustees Powers and Duties*.

¹⁴ Section 1004.22, Florida Statutes.

¹⁵ BOG Regulation 1.001(4)(a)(8), *University Board of Trustees Powers and Duties*.

¹⁶ Five of the 7 universities were in the process of implementing professional staff development and training, or proposed to do so.

¹⁷ Two of the 3 universities were in the process of implementing an anti-hazing Web site, or proposed to do so.

¹⁸ One of the 2 universities was in the process of implementing an anti-hazing educational program for student organizations. Subsequent to our inquiry, in July 2016, the remaining university indicated anti-hazing educational programs had been addressed for student organizations.

to share best practices to prevent hazing, and provides periodic updates to the Committee on anti-hazing initiatives. These anti-hazing initiatives include an online anti-hazing training course to inform students about the signs and symptoms of hazing and how to report hazing. The 2014-15 fiscal year General Appropriations Act¹⁹ required University of Central Florida to procure the online anti-hazing course available to all SUS students and provided State funding for the procurement. At the June 18, 2015, Committee meeting, a Council representative informed the Committee that:

- The online anti-hazing program was piloted in the Spring 2015 semester with 2,861 participating students.
- The program would be fully implemented in the Fall 2015 semester.
- Each university was in the process of identifying populations of students to survey regarding the student's attitude, knowledge, and awareness of hazing and intent to change behavior after participating in the online hazing course. The survey populations would include first year students, new and current members of the Greek system, and band members.

However, although online anti-hazing courses were implemented in the Fall 2015 semester and the Council representative indicated that survey results would be compiled and reported to the Committee, as of October 2016, the results had not been presented to the Committee. In response to our inquiries, the BOG liaison with the Council indicated that survey results will likely be presented at the November 2016 Committee meeting. The 2015-16 fiscal year General Appropriations Act²⁰ required Florida Polytechnic University (FPU) to procure an online anti-hazing course available to all SUS incoming freshmen and provided State funding for the procurement.

While SUS efforts have been made to recognize, prevent, and report hazing activities, as of June 2016, BOG regulations²¹ delegated responsibility for developing anti-hazing policies, penalties, and enforcements to the UBOTs and did not provide for BOG oversight or establish specific guidance for the universities to follow. To further improve student safety and reduce incidents of hazing, BOG regulations could be enhanced by establishing anti-hazing policies as well as the penalties and enforcement actions for universities, faculty and staff, and students found to be participating in or not reporting known hazing activities. In addition, to provide the BOG a means for monitoring hazing activities at the universities, the regulations could require universities to periodically report to the BOG the number of hazing incidents that occurred. A similar finding was noted in our report No. 2013-024.

Student Codes of Conduct

BOG regulations²² require the UBOTs to develop a student code of conduct that includes, among other things, the rights and responsibilities of students; standards of student conduct expected by the university; a list of violations, appropriate penalties, and sanctions; and procedures for initiating and conducting student disciplinary procedures arising from certain types of misconduct. However, the BOG did not identify the student misconduct expected to be addressed in each university's student code of conduct or describe what the BOG considers appropriate disciplinary action for unacceptable conduct.

¹⁹ Chapter 2014-51, Laws of Florida, Specific Appropriation 143.

²⁰ Chapter 2015-232, Laws of Florida, Specific Appropriation 138.

²¹ BOG Regulation 1.001(4)(a)(8), *University Board of Trustees Powers and Duties*.

²² BOG Regulation 6.0105, *Student Conduct and Discipline*.

In response to our inquiries, the BOG General Counsel indicated that university codes of conduct outline the misconduct that can lead to disciplinary action at a university, and that the BOG has not tried to replicate the conduct codes because the authority has been delegated to the UBOTs in BOG regulation.²³ Additionally, BOG staff prepared a chart listing 30 types of student misconduct, surveyed the universities in April 2013 to determine if the universities had implemented a policy to address the misconduct, and documented on the chart that most universities had a comprehensive student code of conduct. However, as shown in Table 1, 6 of the 30 types of misconduct included on the chart had not been addressed by each university.

Table 1
Types of Student Misconduct Not Addressed
in University Student Codes of Conduct

Type of Misconduct	Number of Universities With Codes That Don't Address
Gambling	4
Unauthorized Commercial Solicitation	4
Arson/Fires	2
Misconduct at Sponsored Events	2
Unauthorized Entry	1
Illegal Alteration or Use of Identification	1

Subsequent to our inquiry, BOG staff provided an updated chart as of July 2016, which showed all types of misconduct had been addressed for each university, except for gambling (4 universities), unauthorized commercial solicitation (2 universities), and arson/fires (1 university). BOG-established guidance identifying student misconduct to be addressed in university student codes of conduct and describing what the BOG considers appropriate disciplinary action for unacceptable conduct would promote consistent student disciplinary procedures throughout the SUS. A similar finding was noted in our report No. 2013-024.

Purchasing Practices

State law²⁴ and BOG regulations²⁵ require the UBOTs to adopt purchasing regulations. Effective procurement processes, such as competitive solicitation procedures that help identify and select vendors that provide goods and services at fair, competitive, and reasonable prices consistent with desired quality, serve to increase public confidence in the procurement process. BOG regulations²⁶ require competitive solicitation procedures for deliverables subject to certain conditions, however, BOG regulations provide waivers from the competitive solicitation process for certain goods and services, such as artistic services, academic reviews, and lectures. Although these waivers appear reasonable given the unique nature of these deliverables, we also noted that BOG regulations waived the use of competitive solicitation

²³ BOG Regulation 1.001(4), *University Board of Trustees Powers and Duties*.

²⁴ Section 1010.04(2), Florida Statutes.

²⁵ BOG Regulation 18.001, *Purchasing Regulation*.

²⁶ BOG Regulation 18.001(4) and (6)(d), *Purchasing Regulation*.

procedures for other goods and services and BOG records did not readily identify the reason for the waivers. For example, BOG regulations provided waivers from the competitive solicitation procedures for:

- Accounting and advertising services, which are generally available from various sources.
- Goods and services acquired through the extension of an existing contract, without specifying a maximum number of contract extensions or a time frame (number of years) for the extensions.
- Purchases of goods for resale.

BOG personnel indicated that, in their opinion, there is often a university need to be more strategic in purchases of services not subject to competitive solicitation and the quality and timeliness of exempted services are more important than obtaining the lowest price. However, utilizing a competitive solicitation process for the procurement of goods and services available from various sources does not compromise the quality and timeliness of the deliverables and may help universities acquire goods and services at lower prices and avoid the appearance of favoritism in vendor selection. A similar finding was noted in our report No. 2013-024.

On September 22, 2016, the BOG approved a public notice of intent to amend BOG regulations²⁷ to rename the regulation, no longer waive from competitive solicitation goods and services acquired through the extension of an existing contract, and specify the maximum time frame for contract extensions. The amended regulations would also exclude media placement services from the advertising services competitive solicitation waiver because media placement services are general services not directed to a target audience and may be competitively placed.

Recommendation: The BOG should review, and revise as appropriate, its current regulations to:

- **Ensure definitions of teaching faculty do not conflict with State law.**
- **For sponsored research activities, provide guidance including, for example, restrictions on the use of research funds; procedures for negotiating, entering into, and executing research contracts; procedures for soliciting and accepting research grants and donations; and procedures over the collection of fees and donations.**
- **Provide guidance for establishing anti-hazing policies as well as the penalties and enforcement actions and require universities to periodically report to BOG the number of hazing incidents that occurred.**
- **Provide guidance identifying student misconduct to be addressed in university student codes of conduct and describing the appropriate disciplinary action for unacceptable conduct.**

We also recommend that the BOG continue efforts to document consideration of the appropriateness of waivers from the competitive solicitation process for certain goods and services, such as accounting and advertising services, and purchases for resale.

²⁷ BOG Regulation 18.001, *Procurement Regulation*.

PRIOR AUDIT FOLLOW-UP

Except as noted in Finding 1, the Board of Governors had taken corrective actions for findings included in our report No. 2013-024.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from April 2016 to June 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this operational audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and safeguarding of assets, and identify weaknesses in those controls.
- Determine whether management had taken corrective actions for findings included in our report No. 2013-024.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, weaknesses in management's internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests,

analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the audit period of July 2014 through May 2016, and selected actions taken prior and subsequent thereto. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit we:

- Reviewed the BOG's written information technology (IT) policies and procedures to determine whether the policies and procedures addressed certain important IT control functions, such as security, systems development and maintenance, and disaster recovery.
- Reviewed BOG procedures for maintaining and reviewing access to IT resources. We examined access privileges over the data base applications for 8 of the 72 BOG employees to determine the appropriateness and necessity based on employees' job duties and user account functions and adequacy with regard to preventing the performance of incompatible duties. We also examined administrator account access privileges granted and procedures for oversight of administrator accounts for the network, operating system, database, and application to determine whether these accounts had been appropriately assigned and managed.
- Reviewed BOG procedures designed to prohibit former employees' access to electronic data files. We examined access privileges for the 14 former employees who separated from BOG employment during the audit period to determine whether their access privileges had been timely deactivated.
- Evaluated BOG written security policies and procedures governing the classification, management, and protection of sensitive and confidential information.
- Reviewed operating system, database, network, and application security settings to determine whether authentication controls were configured and enforced in accordance with IT best practices.
- Determined whether a written, comprehensive IT risk assessment had been developed for the audit period to document the BOG's risk management and assessment processes and security controls intended to protect the confidentiality, integrity, and availability of data and IT resources.
- Determined whether a comprehensive IT security awareness and training program was in place for the audit period.
- Evaluated BOG, committee, and advisory board minutes to determine whether BOG approval was obtained for the policies and procedures in effect during the audit period and for evidence of compliance with Sunshine Law requirements (i.e., proper notice of meetings, meetings readily accessible to the public, and properly maintained meeting minutes).
- Examined BOG records to determine whether the BOG had developed an anti-fraud policy and procedures to provide guidance to employees for communicating known or suspected fraud to

appropriate individuals. Also, we examined BOG records to determine whether the BOG had implemented appropriate and sufficient procedures to comply with its anti-fraud policy.

- Examined written policies, procedures, and supporting documentation to determine whether the BOG had developed adequate monitoring and provided timely guidance regarding remunerations of university presidents and administrative employees; operating policies and procedures for university-sponsored research programs; anti-hazing policies; uniform student codes of conduct; and conflicts with vendors that conduct business with a university or give donations to a university's direct-support organization.
- Reviewed approval of tuition differential fees during the audit period to determine whether the BOG approved all tuition differential fees in compliance with Section 1009.24(16)(a), Florida Statutes.
- Determined whether during the audit period the BOG monitored university compliance with Section 1004.085, Florida Statutes, related to textbook affordability.
- From the population of 72 employees compensated a total of \$8,729,396 during the audit period, examined records supporting compensation payments totaling \$1,911,921 to 6 selected employees to determine the accuracy of the rate of pay and whether supervisory personnel reviewed and approved employee reports of time worked.
- For the 12 new hires during the audit period, examined personnel records to determine whether the records evidenced that the employees had the necessary qualifications, degrees, and experience for the position based on the written position descriptions.
- Evaluated BOG policies and procedures for payments of accumulated annual and sick leave (terminal leave pay) to determine whether the policies and procedures promoted compliance with State law and BOG policies. From the population of 6 employees who separated from BOG employment during the audit period, and paid \$48,460 for terminal leave, we selected 3 employees who received terminal payments totaling \$24,593 and examined the supporting records to evaluate the payments for compliance with Section 110.122, Florida Statutes.
- Examined severance pay provisions in the Chancellor's contract to determine whether the provisions complied with Section 215.425(4), Florida Statutes.
- From the population of 72 employees (including the Chancellor) who received compensation totaling \$8,729,396 during the audit period, we selected and examined BOG records related to the Chancellor, who received compensation totaling \$853,033, to determine whether the amounts paid did not exceed the limits established in Section 1012.975(3), Florida Statutes.
- Evaluated BOG policies and procedures for obtaining personnel background screenings to determine whether employees in positions of special trust and responsibility, such as positions with direct contact with persons under age 18, had undergone the appropriate background screenings.
- Examined BOG expenditure documentation to determine whether the expenditures were reasonable, correctly recorded, adequately documented, for a valid public purpose, properly authorized and approved, and in compliance with applicable laws, rules, contract terms, and BOG policies and whether applicable vendors were properly selected and carried adequate insurance. From the population of expenditures totaling \$2,406,773 for the audit period, we examined:
 - Documentation relating to 32 selected payments for general expenditures totaling \$106,502.
 - Documentation relating to 5 selected payments totaling \$448,094 for contractual services agreements.
 - Documentation relating to the competitive selection of one vendor that received 10 payments totaling \$495,149.

- From the population of \$298,606 purchasing card (P-card) transactions during the audit period, examined BOG records supporting 18 selected P-card transactions totaling \$39,786 to determine whether the P-card program was administered in accordance with BOG policies and procedures and transactions were not of a personal nature.
- Examined P-card records for 4 cardholders who separated from BOG employment during the audit period to determine whether P-cards were timely canceled upon the cardholders' employment separation.
- From the population of \$324,473 in total travel expenditures during the audit period, examined 25 selected travel expenditures totaling \$41,186 to determine whether the travel expenditures were reasonable, adequately supported, for valid BOG purposes, and limited to amounts allowed by Section 112.061, Florida Statutes.
- Reviewed BOG policies and procedures related to identifying potential conflicts of interest. We also reviewed Department of State, Division of Corporation, records; statements of financial interest; and BOG records for 15 selected BOG officials to identify potential relationships that represented a conflict of interest with vendors used by the BOG.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General


MANAGEMENT'S RESPONSE



STATE
UNIVERSITY
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To: Sherrill F. Norman, Auditor General

From: Marshall Criser III, Chancellor 

Date: November 16, 2016

Re: Management Response to Preliminary and Tentative Findings,
2016 Board of Governors Operational Audit

I offer my thanks to you and your staff for their diligence and thoroughness in conducting this operational audit over the past several months.

As reflected in our detailed response below, we have carefully reviewed and considered your finding and related recommendations for the Board of Governors to amend guidance and oversight in the areas of remuneration of teaching faculty, sponsored research, anti-hazing, student code of conduct, and procurement.

I am pleased that your Preliminary and Tentative report contained no adverse audit findings on the many Board Office operational responsibilities covered by your audit testing. Through your work, I am reassured that Board Office staff are vigilant in ensuring the Board Office operates efficiently, effectively, and in compliance with applicable laws, rules, regulations, policies, and procedures.

Below is the management response to your finding related to the Board of Governors guidance and oversight function.

GUIDANCE AND OVERSIGHT FUNCTION

Finding 1: The Board of Governors (BOG) needs to enhance regulations to help State universities establish uniform standards that conform to statutory requirements. A similar finding was noted in our report No. 2013-024.

Florida A&M University | Florida Atlantic University | Florida Gulf Coast University | Florida International University
Florida Polytechnic University | Florida State University | New College of Florida | University of Central Florida
University of Florida | University of North Florida | University of South Florida | University of West Florida

Our review disclosed certain regulations related to the remuneration of university presidents and administrative employees, sponsored research, anti-hazing policies, student codes of conduct, and purchasing practices that the BOG could clarify to help State universities establish uniform standards and, as applicable, conform to statutory requirements.

REMUNERATION OF PRESIDENTS AND ADMINISTRATIVE EMPLOYEES

Recommendation: The BOG should review, and revise as appropriate, its current regulations to ensure definitions of teaching faculty do not conflict with State law.

Board of Governors Response: We concur with the recommendation to avoid conflict between our regulation and State law regarding the definition of teaching faculty. The Board will work to ensure alignment between the regulation and section 1012.976, Florida Statutes, with respect to remuneration of university teaching faculty.

The Auditor General's report correctly notes that pursuant to the State Constitution, the Board of Governors has the duty to operate, regulate, control, and be fully responsible for the management of the State University System. The Constitution provides the regulatory authority to the Board to implement system-wide policies that affect the universities, including university personnel. The authority over the personnel programs is recognized in law in section 1001.705(2), Florida Statutes, and in the Governance Agreement between the Board of Governors, the Legislature, and the Executive Office of the Governor. Consequently, the Board of Governors has the authority to promulgate a regulation that affects university personnel. Notably, the reference to "university teaching faculty" in section 1012.976, Florida Statutes, is not defined.

SPONSORED RESEARCH

Recommendation: The BOG should review, and revise as appropriate, its current regulations for sponsored research activities to provide guidance including, for example, restrictions on the use of research funds; procedures for negotiating, entering into, and executing research contracts; procedures for soliciting and accepting research grants and donations; and procedures over the collection of fees and donations.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for sponsored research activities. The Board of Governors will develop appropriate guidelines for divisions of sponsored research in alignment with applicable state and federal law related to sponsored research contracts and grants.

ANTI-HAZING POLICIES

Recommendation: The BOG should review, and revise as appropriate, its current regulations to provide guidance for establishing anti-hazing policies as well as the penalties and enforcement actions and require universities to periodically report to BOG the number of hazing incidents that occurred.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for anti-hazing policies. Board staff will conduct a review of existing university anti-hazing policies and recommend changes as appropriate to the universities' policies and/or Board of Governors' regulations.

With regard to providing specific penalties and enforcement actions for hazing incidents within Board of Governors regulations, we recognize each incident is fact-specific and student affairs professionals must address these incidents consistently with the principles described below.

Student affairs professionals and student conduct programs have a well-established practice of "administering student discipline to the end that the individual will be strengthened, and the welfare of the group preserved" and of viewing discipline as "a special phase of counseling in the development of self-responsibility for behavior rather than in the spirit of punishment of misbehavior" while simultaneously complying with federal, state, and local laws (The Student Personnel Point of View, 1937 & 1949, published by the American Council on Education).

The current *Ethical Principles and Standards of Conduct for the Association of Student Conduct Administration* states:

Members support the principle of adherence to community standards and when those standards are violated, the necessity of

disciplinary interventions that contribute to the educational and personal growth of the student.

In addition, the Council for the Advancement of Standards in Higher Education (CAS) develops standards for all areas of student affairs that reflect best practices agreed upon by the student affairs profession-at-large. The CAS standards for student conduct programs state that the program goals:

... must address the institution's need to provide learning experiences for students whose conduct may not be consistent with institutional expectations as well as for those students who participate in the operations of the student conduct system.

These principles and standards are also supported by national student affairs leaders as indicated by the following:

The student conduct process, unlike the criminal and civil legal systems, is designed to address the student's relationship to the institution and its behavioral standards and policies. While the process may involve situations that overlap with criminal laws (e.g. theft, drugs, or sexual assault) and civil statutes (e.g. fraud, social host laws, and other neighborhood issues) campus policies and processes are intentionally and appropriately different. Instead, the student conduct process focuses on assessing the impacts of an individual's behavior on the learning environment of others and facilitating student growth, learning, and development. (An Attorney's Role in the Conduct Process, By Tamara King, JD and Benjamin White, JD, published by the Association for Student Conduct Administration)

Board staff will work with university personnel to develop a process for collecting the number of hazing incidents that occur and will work with university student affairs professionals to assess consistency with the principles articulated above.

STUDENT CODES OF CONDUCT

Recommendation: The BOG should review, and revise as appropriate, its current regulations to provide guidance identifying student misconduct to be addressed in

university student codes of conduct and describing the appropriate disciplinary action for unacceptable conduct.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for university student codes of conduct. Board staff will work with the universities whose codes do not address gambling, unauthorized commercial solicitation, and arson/fires to revise their student codes of conduct to include these types of misconduct.

With regard to describing the appropriate disciplinary action for unacceptable conduct within Board of Governors regulations, we recognize each incident is fact-specific and student affairs professionals must address these incidents consistently with the principles described below.

Student affairs professionals and student conduct programs have an established practice of “administering student discipline to the end that the individual will be strengthened, and the welfare of the group preserved” and of viewing discipline as “a special phase of counseling in the development of self-responsibility for behavior rather than in the spirit of punishment of misbehavior” while simultaneously complying with federal, state, and local laws (The Student Personnel Point of View, 1937 & 1949, published by the American Council on Education).

The current *Ethical Principles and Standards of Conduct for the Association of Student Conduct Administration* states:

Members support the principle of adherence to community standards and when those standards are violated, the necessity of disciplinary interventions that contribute to the educational and personal growth of the student.

In addition, the Council for the Advancement of Standards in Higher Education (CAS) develops standards that reflect best practices agreed upon by the student affairs profession-at-large. The CAS standards for student conduct programs state that the program goals:

... must address the institution’s need to provide learning experiences for students whose conduct may not be consistent with

institutional expectations as well as for those students who participate in the operations of the student conduct system.

These principles and standards are also supported by national student affairs leaders as indicated by the following statements:

The student conduct process, unlike the criminal and civil legal systems, is designed to address the student's relationship to the institution and its behavioral standards and policies. While the process may involve situations that overlap with criminal laws (e.g. theft, drugs, or sexual assault) and civil statutes (e.g. fraud, social host laws, and other neighborhood issues) campus policies and processes are intentionally and appropriately different. Instead, the student conduct process focuses on assessing the impacts of an individual's behavior on the learning environment of others and facilitating student growth, learning, and development. (An Attorney's Role in the Conduct Process, By Tamara King, JD and Benjamin White, JD, published by the Association for Student Conduct Administration)

Board staff will work with university student affairs professionals to assess consistency of student conduct disciplinary action with the principles articulated above.

PURCHASING PRACTICES

Recommendation: We also recommend that the BOG continue efforts to document consideration of the appropriateness of waivers from the competitive solicitation process for certain goods and services, such as accounting and advertising services, and purchases for resale.

Board of Governors Response: We concur with the recommendation that the Board of Governors continue efforts to document consideration of the appropriateness of waivers from the competitive solicitation process for certain goods and services, such as accounting and advertising services, and purchases for resale.

Effective November 3, 2016, the Board of Governors amended Regulation 18.001, Procurement Regulation. The amended regulation places limits on extensions and renewals, and specifies that the advertisement exemption does not include media placement services. The intent of the exemption, except for media placement, is to allow for advertisements such as required legal notices or other items that require public notice to be placed in local markets that may have limited advertisement opportunities.

Regarding the other two exemptions specified in the audit, accounting services and goods for resale, we have gathered documentation for their continued exemption.

1. University procurement officers advised that the exemption for accounting services is applied in cases where the university's business needs include factors such as: specialization in a particular industry; focus on specific target audiences; a unique business model; or a particular geographic focus. According to the universities, the use of this exemption is infrequent.
2. Regarding purchases of goods for resale, the use of this exemption is extensive and long-standing. Purchase of goods for resale by a university by its nature is not conducive to a strict bidding process. These types of purchases, or sales decisions, are driven by customer preferences.

The Board of Governors will continue to monitor the use of these exemptions, as well as other aspects of the Procurement regulation, and consider further amendments as may be needed in the future.

MC/jkm