

The University of Connecticut  
Office of Audit, Compliance and Ethics  
Report on

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**Faculty Consulting Activities and University Procedures  
For the Period July 1, 2011 through June 30, 2012**

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Faculty Consulting Activities and University Procedures**

**BACKGROUND**

The University has implemented a faculty consulting policy (Policy) and associated procedures for the approval of consulting requests, including disclosure, review and management of conflicts of interest relating to any such activity, to comply with the provisions of Connecticut State Public Act (PA) 07-166, which was amended in June 2012 to require the performance of an annual, rather than semiannual, audit to assess compliance with the Policy.

The Faculty Consulting Offices (FCOs) implemented an on-line faculty consulting approval system (OFCAS) used by both Storrs and UCHC faculty, during fiscal year 2012 (FY 2012). While OFCAS became available for some faculty in July 2012, the implementation was delayed for most faculty members until December 1, 2012. As a result, many consulting requests occurring in FY 2012 were submitted using the hardcopy form prior to and during the implementation of this system. The FY 2012 annual consulting reconciliation was performed through OFCAS rather than utilizing individual system generated consulting reconciliation reports for each faculty member.

**OBJECTIVES AND SCOPE**

Our audit objectives were to evaluate:

- Compliance with the Policy, including the required annual faculty consulting reconciliation reporting requirement
- The effectiveness of the established faculty consulting activity approval and oversight procedures
- The identification and management of potential competition and/or conflicts of interest and commitment for faculty members performing consulting activities possessing certain high risk attributes.

Our review included all “*Request[s] for Approval of Consulting Activities*” submitted for the period, July 1, 2011 through June 30, 2012, including any hardcopy request forms. FY 2012 consulting request data used in the audit was extracted from the OFCAS database tables using a query written by Storrs’ University Information Technology Services (UITS). Due to technical difficulties with OFCAS, the annual reports developed by the FCOs were not available to us during our audit procedures. As a result, some the statistics in this report are estimates. The annual consulting request reconciliation report component of the audit was based on comprehensive campus specific *Reconciliation Report[s] for FY 2012* for Storrs and UCHC, generated through OFCAS.

We conducted interviews with judgmentally selected Department Heads to assess the oversight of faculty consulting activities within the departments. Finally, we reviewed the status of corrective actions included in management responses to recommendations in prior audit reports. This audit did not include tests of management's corrective actions with a completion date later than June 30, 2012. These actions will be evaluated in subsequent Faculty Consulting audits.

## **GENERAL OBSERVATIONS AND CONCLUSIONS**

The approximate number of consulting requests submitted to the Storrs and the University of Connecticut Health Center (UCHC) FCOs during the period under review was 1,205 and 728 respectively. The corresponding number of faculty members submitting consulting requests to the Storrs and UCHC FCOs was 466 and 164 respectively.

Our interviews with Storrs and UCHC department heads confirmed an improved awareness of the faculty consulting policies and procedures and the oversight responsibilities required of a department head, when compared to the prior year's interviews. Faculty consulting approval requirements are discussed at department meetings, with most faculty members demonstrating a willingness to comply with the policies and procedures. We continued to identify Storrs faculty members who performed consulting activities during periods in which special payroll authorizations and financial accounting records confirmed that he/she had committed fulltime effort with corresponding summer salary and fringe benefits charged to projects funded by external sponsors.

Due to system/server related problems, OFCAS was taken off-line in August 2012. OFCAS was migrated from the workflow routing engine and database tables on which the system was originally built to the workflow engine integrated with Quali, the Storrs financial system implemented at the beginning of FY 2013 (July 2012). These events negatively impacted the faculty's ability to complete the annual reconciliations September 15, 2012, the original due date. As a result, the Provost extended the due date to October 31, 2012.

An annual consulting activity reconciliation report is no longer generated and distributed for each faculty member. Faculty members are required to confirm, through OFCAS, whether the activity actually took place and to provide corrected reconciliation data when elements such as: dates; number of consulting days; level of compensation and use of University resources differ from the original consulting request. A faculty member may complete the reconciliation of each approved consulting activity at any time after the activity has been completed. The date on which the online reconciliation occurred is stored in the database. We concluded that the FY 2012 consulting activity reconciliations were performed by Storrs and UCHC faculty as required, unless otherwise noted in the observations that follow.

In our review of the annual faculty consulting reconciliation process, we noted instances of duplicate reporting of the same consulting requests, consulting requests that appeared in the extracted OFCAS data but were not included on the reconciliation reports, numerous requests that did not complete the approval/denial/reconciliation routing process, appearing to be "hung-up" in the system, and large discrepancies between the approved and reconciled activity start dates. Based on these observations, we concluded that enhancements to OFCAS should be

implemented to provide accurate management reports, promote data integrity, such as date range validity testing during the reconciliation process, and to close all workflows for consulting requests entered into the OFCAS in a given fiscal year. It is also important to note that network and server outages have a negative impact on OFCAS, resulting in delayed approvals and the duplicate entry of 'lost' requests.

The *Consulting by Faculty* webpage, <http://consulting.uconn.edu/>, provides an abundance of information and links to on-line training materials, policies and procedures, statutes, audit reports, and Consulting Management Committee actions and meeting minutes. In addition, the FCOs have written and presented training materials regarding faculty consulting policies and procedures to Deans and Department Heads. In response to prior audit observations related to high risk consulting activities, a Conflict of Interest/Commitment Committee, with members appointed from both Storrs and UCHC, was formed and is working to define what constitutes a high risk consulting arrangement, design a process to be followed when high risk cases are identified, and develop a *University Statement on Conflicts of Interest and Commitment*. We recognize the enormous amount of time and effort has been invested by the FCOs in these endeavors.

## **OBSERVATIONS & RECOMMENDATIONS**

### **1. Consulting Workflow Data**

We found numerous instances of multiple consulting request records with the same document id in the extracted Storrs and UCHC consulting request data. In addition, we observed instances of consulting requests that were entered twice, once as an online entry in the workflow and once through a batch upload of FY 2012 hardcopy consulting request form data. These requests were assigned unique document ids. Duplication of a request in the workflow data was determined through matching start dates, end dates, number of days, and contracting entity. In some instances, the requests appeared to be hung-up in the workflow with a status of preWorkflow or inWorkflow, indicating that the request had not completed the approval process.

Given the number of duplicate consulting requests detected during our review, we concluded that FY 2012 faculty consulting activity reports, based on the data stored in the OFCAS, will overstate the number of consulting requests and consulting days approved. This concern has been communicated to the FCOs. Appropriate measures are being taken to ensure the accuracy of the 2012 consulting request data used for reports prepared for the legislature.

No recommendations are necessary.

### **2. Annual Faculty Consulting Reconciliation Reports**

We performed a review of the Storrs and UCHC *Reconciliation Report for FY12* to test for existence, timeliness and completeness. Our test procedures included a comparison of the consulting activities listed on the annual reconciliation report to the FY 2012 consulting activities extracted from the workflow database to assess the accuracy of the reports,

including the number of consulting days and total compensation received. We were unable to find a number of the extracted consulting requests on the reconciliation reports. The document status for these records included inWorkflow, preWorkflow, postWorkflow and denied.

We also compared the number of consulting days in the original request to the reconciled consulting days and the requested start date to the actual start date per the reconciliations. We identified three Storrs consulting requests in which the number of days per the reconciliation exceeded the original number of days requested by 10, 20 and 26 days. Increases in the number of consulting days of this magnitude represent a material difference which may impact the approval or denial of the request. There is no documentation to indicate that these additional consulting days received prior approval by the department head, dean and FCO.

We also identified several consulting activities with large discrepancies in the approved and reconciled start dates, with the largest discrepancy equaling 2,520 days.

It is probable that a large interval between the approved and reconciled start date is indicative of a data entry error by the faculty member. Faculty consulting policy violations may exist, however, depending on the final approval date for the activity. Consulting activities that occurred significantly after the start date on the original request may be problematic in that the university duties of the faculty member may have changed.

### **Recommendations**

The FCOs should develop a procedure to identify and age consulting requests that have not completed the approval process. Requests that remain in a "preWorkflow" or "inWorkflow" status after the activity start date should be reported to the faculty member and department head for resolution.

The faculty consulting procedures should address approval requirements for large increases in the number of consulting days approved on the original request.

### **Management Responses**

A significant amount of progress has been made in FY 2013 in removing duplicate, 'hung up', and inactive requests from the on-line approval system. As of April 2013, full access to all on-line records was finally established enabling the development of the FY 2012 Faculty Consulting Program annual report and the FY 2012 Faculty Consulting Oversight Committee annual report with more accurate data. Improvements of the on-line system have also enabled more 'cleaning up' of the data queues.

The FCO will review "in-queue" reports weekly, identifying requests that have stalled or need immediate attention, based on a start date. The CLAS Dean's Office is working with the Storrs FCO to address these requests. Moreover, UITS has developed a "superuser" for the FCOs, allowing them to act on a request that is stuck – due to system error – or lost. Such actions can range from deleting the request (in order to allow a new one for the same activity

to be initiated, have it sent back to requestor for revision, or to approve it so it will move up the approval chain.)

The amount of effort allocated to a consulting activity is used in two ways by the FCO: 1) To help determine if the level of compensation is in alignment with the service being provided, and 2) To reduce the risk that the consulting activity will interfere with the faculty member's ability to fully perform his/her expected job duties. Regarding the latter, the annual evaluation of the faculty member is the best measure to retroactively determine if consulting interfered with work performance. Future requests to consult may be denied based on negative annual performance ratings.

In approving requests, special attention is paid to consulting that is to take place during normal work time (NWT). It should be noted that the faculty must fully address their job responsibilities, even when consulting during NWT, but that they may need to do such work outside their NWT to do so.

The faculty member must obtain prior approval from the department head not only for the amount of such time spent consulting during NWT, but also for which specific dates and times are used to consult. Such approval can be obtained at the time the initial consulting form is submitted and approved, or subsequently through direct written communication with the department head. The latter are required to be kept on record.

When a faculty member's combined reconciliation reports for the fiscal year has a total time actually spent consulting during NWT that exceeds the total approved on the original request forms, the FCO will contact the department head and/or faculty member to determine that prior approval had been granted to consult during NWT. A department head's approval for such time will be considered as a post hoc revision to the initial consulting request form.

If there is no such documentation of prior approval for NWT, then the faculty member will be deemed to be non-compliant with the Consulting Policy for using too much NWT to consult and for not obtaining prior approval for using the specific dates that this took place. In such a case, discipline will be considered and issued in accordance with the applicable provisions of the collective bargaining agreement or the employment agreement of the faculty member and subject to any appeal rights that may be available.

Expected date of completion: December 31, 2013.

### **3. Annual Faculty Consulting Non-Reconciliation Reports**

Non-reconciled consulting requests were tracked by the FCOs through a *Non-Reconciliation Report for FY12* for Storrs and UCHC, which contained 20 Storrs and 65 UCHC requests respectively.

Five of the UCHC faculty members with 34 requests separated from the University prior to the annual reconciliation due date of October 31, 2012. We identified valid explanations for

the lack of reconciliation for the remaining 34 UCHC requests: 28 were denied; two requests were returned; and one request was withdrawn.

Eight of the 12 Storrs faculty members named in the report separated from the University prior to the annual reconciliation due date of October 31, 2012. The remaining four Storrs faculty members continue as fulltime employees of the University. Based on our review of the consulting request data, one unreconciled request appears to be a duplicate of a request that was reconciled and one unreconciled request was submitted late and was not approved until December 2012.

No recommendations are necessary.

#### 4. **Conflict of Interest and Competition with the University**

Section 6002 of the Affordable Care Act (ACA) requires the establishment of a transparency program, now known as OPEN PAYMENTS, wherein manufacturers of drugs, medical devices, and biologicals that participate in U.S. federal health care programs must report certain payments and items of value given to physicians and teaching hospitals.

Manufacturers will submit the reports to the Centers for Medicare & Medicaid Services (CMS) on an annual basis. In addition, manufacturers and group purchasing organizations (GPOs) must report certain ownership interests held by physicians and their immediate family members. The majority of the information contained in the reports will be available on a public, searchable website. Physicians have the right to review their reports and to challenge those reports that are false, inaccurate, or misleading. Reporting begins on August 1, 2013.

Currently OACE subscribes to *PharmaShine*, a service that makes it possible to track and report payments made to UCHC faculty by a number of pharmaceutical, medical device, biological, and medical supply manufacturers companies who report such payments on an after the fact basis. *PharmaShine* provides payment alert emails and online access to a database that includes the disclosed “payments-made” to physicians.

*PharmaShine* payment alerts above an identified threshold amount are traced to the approved consulting requests to determine whether the faculty member received approval to consult for the contracting entity during the period in which the payment was received. Procedures have been developed for the UCHC FCO to investigate possible non-compliance with the consulting policy. It appears that UCHC faculty members are not fully aware that companies covered by OPEN PAYMENTS are currently reporting the names, amounts paid, timing and nature of the payments made to physicians in a publicly accessible format, usually available on-line through a company’s website.

#### **Recommendation**

The UCHC management should alert faculty members regarding OPEN PAYMENTS disclosures and provide guidance regarding the need for faculty to review the accuracy of all payment information reported by companies under OPEN PAYMENTS.

## **Management Response**

Agreed. Expected date of completion: August 1, 2013.

### **5. Consulting Activities Performed while Drawing Summer Salary**

During our review of the FY 2012 Storrs consulting requests, we identified 211 consulting requests, submitted by 140 Storrs faculty members, for activities taking place at some time during the summer periods, May 23 through August 22, 2011 and May 23 through June 30, 2012, which fall within the FY 2012 fiscal year. We reviewed the requests to determine whether the consulting period specified overlapped significantly with externally funded, University paid, summer effort charged to sponsored grant accounts.

We found 12 consulting activities performed by ten faculty members during periods in which special payroll authorizations and financial accounting records confirm that he/she had committed fulltime effort with corresponding summer salary and fringe benefits charged to projects funded by external sponsors. Faculty who have bought out three months of summer effort through full summer salary and fringe benefits paid from sponsored projects have no free time available for private consulting, unless he/she has received approval from the sponsor to do so.

These findings illustrate that department heads, deans and the Storrs FCO are not consistently cross checking summer consulting against compensated sponsored project effort commitments to determine whether faculty have uncommitted time available to perform the private summer consulting activity.

## **Recommendation**

Faculty members who plan to perform summer consulting activities should not buy out 100% of summer effort by charging full summer salary and fringe benefits to sponsored project accounts.

## **Management Response**

Agreed. The Storrs FCO and Provost's Office offer this guidance consistently and it has been expressed to department heads and deans. The Storrs FCO will consider adding specific language to the Consulting Procedures with this guidance.

### **6. UCHC Department Head Approval**

While interviewing UCHC department heads, audit asked who approves your requests to consult. Each School of Medicine department head stated that their requests are sent to the Dean of the Medical School's designee to approve as department head. These same requests are then sent to him to approve as Dean of the Medical School and as the Executive Vice President for Health Affairs designee.



### **Recommendations**

Executive Vice President for Health Affairs and Dean of the Medical School, or his Chief of Staff should approve all School of Medicine department head requests for consulting.

### **Management Response**

Agreed. This approval step existed when paper forms were used to process consulting requests, but UITS was unable to program this feature into version 1 of the on-line approval system. Version 2 of OFCAS will now support this functionality, but only when problems with the delegate control system are resolved. Expected date of completion: August 31, 2013.