

OFFICE OF THE STATE AUDITOR



University of New Mexico (Including Certain Component Units)

Special Audit

For the Period of July 1, 2014 through June 30, 2017

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OFFICIAL ROSTER

BOARD OF REGENTS

Appointed Members

Robert M. Doughty III	Board President
Marron Lee	Vice President
Thomas Clifford	Secretary/Treasurer
Alex Romero	Regent
Lieutenant General Bradley C. Hosmer, USAF (Ret.)	Regent
Suzanne Quillen	Regent
Garrett Adcock	Student Regent

Non-Voting, Ex Officio Members

The Honorable Susana Martinez	Governor of the State of New Mexico
Dr. Barbara Damron	Secretary of Higher Education

UNM PRINCIPAL ADMINISTRATIVE/FINANCIAL OFFICIALS WITH AN EMPHASIS IN ATHLETICS

Chaouki Abdallah	Interim President
David W. Harris	Executive Vice President for Administration, COO and CFO
Paul Krebs	Former Vice President Athletics
Eddie Nuñez	Director of Athletics
Elizabeth Metzger	Controller

I. EXECUTIVE SUMMARY

The Office of the State Auditor (OSA) received multiple communications from concerned citizens related to the University of New Mexico and certain of its component units. After receiving this information and conducting fact-finding, the OSA determined that the matters raised were appropriate for more in-depth review.

Pursuant to NMSA 1978, Section 12-6-3(C) (Audit Act), the State Auditor “may cause the financial affairs and transactions of an agency to be audited in whole or in part.” Additionally, in accordance with 2.2.2.15 NMAC (Audit Rule), the State Auditor may initiate a special audit regarding the financial affairs and transactions of an agency or local public body based on information it receives. On May 31, 2017, the OSA formally designated University of New Mexico (“UNM” or “University”) and certain component units for a special audit. On June 28, 2017, the OSA entered into an agreement with UNM to provide services in accordance with American Institute of Certified Public Accountants (AICPA) consulting services standards. The purpose of the consulting services engagement was to address concerns regarding specific Athletics Department transactions, payments and compensation to specified individuals, and certain transactions between component units. The OSA is appreciative of UNM personnel for their cooperation and recognition of the importance of this work to the broader interests of the University, students and the State of New Mexico.

It is more important than ever to ensure that public universities, their athletics programs and their supporting fundraising operations are managed with the utmost financial transparency and accountability. Like most universities, UNM in general, and the Athletics Department specifically, rely on a steady stream of public support, received in part through charitable organizations such as the UNM Foundation and the UNM Lobo Club. Unfortunately, a recent poll revealed a lack of confidence in such charities. The study, conducted by the Chronicle of Philanthropy in 2015, revealed that one-third of respondents said charities do a “not too good” or “not at all good” job spending money wisely. Just 13% said that charities do a “very good” job of spending money wisely. Fifty percent of respondents said that low overhead spending is a factor that influences their giving decisions.

At the same time, college athletics programs are also under heightened scrutiny. The Knight Commission on Intercollegiate Athletics has highlighted the fact that athletic spending per athlete far exceeds academic spending per full-time student. In 2008, the Mountain West Conference schools reported \$69,000 in athletic spending per athlete versus just \$13,404 in academic spending per student. The Knight Commission stated:

[A]t a time when all of U.S. higher education is under unprecedented pressure to be more transparent to the public and more accountable for the results it achieves, intercollegiate athletics cannot expect to be immune to the same standards. Moreover, as with other parts of higher education, heightened scrutiny of college sports should not be viewed as a threat but as an opportunity. With the spotlight already on intercollegiate athletics, more effective disclosure of finances— and of

financial priorities—will enhance the long-term prospects of college athletics by ensuring that they remain part of, not apart from, the central mission of colleges and universities.

In this environment, New Mexico’s public universities must develop and enforce clear, written agreements and policies that address issues such as oversight, separation of duties, conflicts of interest, and fiscal management. The Higher Learning Commission has established as a core component of its accreditation criteria that a university must demonstrate that it “operates with integrity in its financial, academic, personnel, and auxiliary functions; it establishes and follows policies and processes for fair and ethical behavior on the part of its governing board, administration, faculty, and staff.” Such policies allow external parties to audit for compliance. They also allow donors and the general public to evaluate whether the university has maintained an appropriate balance of accountability, transparency and efficiency.

Against this backdrop, the OSA’s review of UNM Athletics and its activities with related institutions like the Lobo Club and the UNM Foundation revealed the following observations, which are examined in more detail in the Findings:

- A stark lack of internal controls and guidance as to the division of responsibilities among staff and entities has resulted in the University and its related organizations losing money. Examples of these shortcomings include (1) over \$432,000 in uncollected revenue from luxury suites and club suites at Dreamstyle Arena (the Pit), for over half of which UNM had issued no contracts or invoices prior to discovery of the issue, (2) \$256,000 in uncollected revenue from a contract with Lobo Sports Properties, LLC, with whom UNM contracts for sports marketing, and (3) \$185,000 in overpayments to coaches which have since been recovered. As of September 1, 2017, \$238,791.70 remained uncollected for Pit suite and club seats. (Findings 2017-001, 2017-002 and 2017-006)
- Booster clubs and the Lobo Club raised money that went directly into UNM’s General Ledger and bank account, commingling with public funds. These funds were then used for meals and alcohol, hotels, golf outings, and other expenditures that may be appropriate perks to purchase with donor funds, but are not appropriate uses of public funds. The lack of clear policy and direction on the sources of funds led to an appearance of impropriety at best, and violations of the Anti-Donation Clause of the New Mexico constitution at worst. (Finding 2017-004)
- Within the higher educational fundraising community, it is common practice to offer certain benefits or “perks” to donors. Fundraising professionals use an informal rule of proportionality to avoid excessive benefit and to foster confidence among donors. This means that the benefits that a donor receives should be related to the amount the donor has given and has capacity to give, and the connections that the donor may have to other prospective large donors. Because of a lack of policies or comprehensive oversight on the topic, the report identified 23 recipients of “donor perks” who had not made any monetary contributions to UNM or its related entities. (Finding 2017-005)

- The audit identified certain donated funds that were not used in accordance with donor intent. For example, an endowment for ski team equipment was used for scholarships and an endowment for ski team scholarships was used for a scholarship to a women’s basketball player. (Finding 2017-003)
- The audit identified a range of weaknesses in internal controls. While these findings may appear to be minor or isolated, they are indicative of a historical tone-at-the-top that resulted in failure to address findings and improve controls, creating an environment susceptible to fraud, waste, and abuse. In addition, these issues erode donor confidence over time. UNM and its related entities should each promptly implement consistent procedures that include reviewing all supporting documentation for appropriateness of expenses, compliance with P-card policies, and retention of appropriate documents to ensure compliance with relevant statutes, regulations, and policies. (Findings 2017-007 and 2017-008)

Governing boards and the University administration are responsible for developing and enforcing appropriate policies across the spectrum of entities that may be involved in Athletic fundraising and expenditure. The Knight Commission observed:

Boards need to take a stand in bringing about a new era of heightened accountability in the domain of intercollegiate athletics. All too often, boards are unclear about the financial model, whether the athletics program is self-sufficient, or whether athletics programs are supported by institutional funds (often derived from student fees and other sources). In rare but well-known instances, boards have been lax in assessing institutional risks in athletics—with dire consequences for their institutions.

Ultimately, it falls upon the Regents of the University of New Mexico, as the governing body, to ensure that UNM in general, and Athletics in particular, maintain the highest level of financial accountability and inspire confidence in donors, students, alumni and the public. As the Higher Learning Commission accreditation criteria explain, the governing board must “make decisions in the best interest of the institution and to assure its integrity.” Accordingly it is incumbent on the Regents to create a governance structure that achieves maximum accountability and transparency while maintaining the necessary independence of the related entities. As the famed management consultant Peter Drucker observed, “The best structure will not guarantee results and performance. But the wrong structure is a guarantee of nonperformance.”

Furthermore, it is also UNM’s responsibility to make its dealings transparent to the general public. The Higher Learning Commission accreditation criteria require that, “Actions and decisions reflect an understanding that in its educational role the institution serves the public, not solely the institution, and thus entails a public obligation.” In examining the relationships among the university and its related charities, the University of Texas system recognized, “One thing is clear: to maintain the public’s trust, a greater degree of transparency for public institutions and private foundations is required today than at any previous time.” In the absence of this transparency, expenditures and transactions that comply with all policies may still create the appearance of waste, conflict of interest

or private benefit.

The OSA observed the following UNM governance and structural concerns that contributed to the Findings in this Report:

- A complex web of transactions clouds and distorts most efforts by the public or even University executives to be able to draw clear lines of accountability for many expenditures.
- Furthermore, the Lobo Club lacks a requirement for a treasurer position in its bylaws. In addition, booster clubs are not formally organized and also have no treasurers. Having a formally required treasurer is one of the long standing tenets of basic non-profit governance and would go a long way toward individual accountability.
- A lack of coordinated and consistent oversight has contributed to all of the Findings in this Report, and currently leaves individual accountability across various University component units nearly unachievable. The Athletics Department has not had a Financial Officer for the majority of the past five years. Many of the issues identified may have been prevented with proper oversight by a Financial Officer.
- Compounding the problems caused by vacancies in the Athletics Department is the structure of UNM executive financial oversight, which has combined into one position the roles of Executive Vice President for Administration, Chief Financial Officer and Chief Operations Officer (EVP/CFO/COO). The lack of a dedicated CFO position creates the potential for improper segregation of duties or conflicts of interest and diffusion of responsibility.
- Although the UNM Internal Audit Department (Internal Audit) is intended to report to the President of UNM and the Regents under the Regents' policies, in practice Internal Audit also reports to the University's EVP/CFO/COO. The EVP/CFO/COO plays a key role in directing the work that Internal Audit performs, including selecting which audits to perform and what findings to report. Given the broad authority that the EVP/CFO/COO has, this creates the potential to direct Internal Audit's focus away from high-risk areas like Athletics.

The effect of each of these conditions can be seen in situations throughout the Athletics Department. The Findings outline specific situations, such as the failure to collect revenue for the Pit luxury suites, in which multiple entities worked together informally to market, rent and administrate the boxes. This was arranged with inadequate formal documentation between UNM, the Lobo Club and Lobo Sports Properties (a private contractor that UNM engages to cultivate donor relations that occasionally sold suites and club seats as part of a package). The result was a set of transactions totaling nearly half a million dollars, much of which was not appropriately documented, making it difficult to enforce payment obligations and difficult to detect by current University financial oversight structures.

Recognizing the core accreditation principle that the Board of Regents must "provide oversight of the institution's financial and academic policies and practices and meet its legal and fiduciary

responsibilities,” the OSA recommends evaluating a number of approaches to increasing accountability and transparency among the UNM entities:

- The annual reporting between the Foundation, Alumni Association, Lobo Club and UNM should be expanded to include information on benefits or “perks” given to employees and donors and other material so that UNM can identify issues like excess donor benefit and conflicts of interest. Appropriate measures can be taken to ensure confidentiality without compromising oversight.
- While the structural overlap among UNM and the other entities is not inconsistent with other comparable universities, the mandate of those overlapping individuals should be expanded to more clearly discharge UNM’s fiduciary duty to establish high standards of transparency and ethical responsibility, especially for UNM Athletics. Key cross-entity individuals with roles on multiple entity boards have an enhanced responsibility to ensure consistent oversight.
- UNM Internal Audit’s mandate, which is set by the Regents, should be expanded to expressly cover the operations of the related entities, with a specific focus on the Athletics funding and programs. Internal Audit currently has the right to demand information from the related entities as part of various agreements, but the Regents’ Policy on Internal Auditing and Compliance does not address the related entities, such as the Foundation, Booster Clubs and Alumni Association. Furthermore, Internal Audit should report directly to the President and the Regents (in form and substance) as described in existing policy.
- Alternatively, UNM and its related entities may establish a centralized office of the ombudsman with the authority to address inter-component unit compliance and ethics concerns related to the dealings among the University, Foundation, Lobo Club and Alumni Association, especially with respect to Athletics. This can be accomplished without compromising the independent governance necessary in each entity.
- UNM should consider separating the Chief Financial Officer position from the Executive Vice President for Administration and Chief Operating Officer roles in order to achieve better segregation of duties. Lack of a dedicated CFO, whose sole purpose is financial management of University dollars, for a University system the size of UNM, dilutes lines of financial accountability and oversight and can cloud fiduciary duty.

UNM provided responses to each audit finding. The responses are included in the Schedule of Findings and Responses and have not been audited or edited.

II. BACKGROUND

This special audit, conducted in accordance with consulting services engagement standards, was performed to address concerns regarding certain Athletics Department transactions, payments and compensation to specified individuals of interest, and certain transactions between component units.

During the course of the engagement, OSA determined that providing additional information to the public would help address many of the concerns raised. The background information below has been compiled to assist readers in understanding the circumstances surrounding the structure of UNM and its transactions.

Overview of UNM Athletics and UNM Funding Sources

UNM was created as a state educational institution by Article XII, Section 11 of the Constitution of New Mexico. UNM is a part of the primary government of the State of New Mexico for accounting purposes, and is governed by a seven-member Board of Regents. The Governor of New Mexico appoints the Regents, with the consent of the Senate, for staggered terms of six years, except for the student regent who serves a two-year term. The Board of Regents has oversight responsibility and control over all activities related to UNM. The President of UNM is its Chief Executive Officer reports directly to the Board of Regents. The President is responsible for implementing the policies adopted by the Board of Regents. In addition to following the applicable administrative policies and procedures, the President shall inform the Board of Regents prior to appointing, dismissing, setting compensation, and amending or not renewing the contract of all executive vice presidents, vice presidents and UNM counsel. Appendix 5 contains list of UNM Officers, Regents and employees relevant to this Report as of June 30, 2017.

The UNM Athletics Department (Athletics) is a department of UNM. According to the UNM website, Athletics “is 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. Athletics aspires to be the premier institution in the Mountain West Conference and recognized as a national leader in intercollegiate athletics with an international reputation for excellence.” The Vice President of Athletics is responsible for the operations of Athletics and reports to the UNM President and the Executive Vice President for Administration/CFO/COO. Appendix 1 contains a list of key Athletics Department employees and their compensation.

Sources of operating revenue for UNM include tuition and fees, grants and contracts, other patient-related services, sales and services, and other clinical operations. In addition to tuition, there are three components of mandatory fees assessed to students: (1) the facility/information technology debt service fee, (2) the student activity fee and (3) the student government fee. The facility/information technology debt service fee is assessed to help UNM pay the outstanding principal on bonds sold by UNM and is set at the time bonds are issued. The student activity fee is assessed with tuition to all students registered on main campus, including the Health Sciences Center. Revenue generated by the student activity fee is used to support a variety of student activities that enhance the academic and intellectual environment at UNM. The student government fee is levied on each student. UNM assesses additional mandatory fees on graduate students. UNM utilizes a Student Fee Review Board to make recommendations to the Budget Leadership Team regarding student activity fee amounts and unit allocations of projected student activity fee revenue. Budget allocation of the student activity fees for is listed in Appendix 2. UNM approves final department budget plans on an annual basis.

Operating budgets are submitted for approval to the Board of Regents, the New Mexico Higher Education Department and the State Budget Division of the Department of Finance and Administration. Athletics is included in the Executive Vice President (EVP) for Administration's budget. Other departments in the EVP for Administration budget include Information Technologies, Financial Service and Human Resources. UNM provides approximately \$37 million in funding to Athletics as part of the UNM operating budget.

Revenue to support UNM and Athletics also comes from various sources including: fundraising efforts and events; sporting events and games; specialty ticket sales; grants and contracts; and sales and services. (In addition, the UNM Health Sciences Center has its own sources of revenue and financial procedures.)

Like most universities, UNM has a number of related entities that assist with fundraising. The entities relevant to this Report are the UNM Foundation, the Lobo Club, various booster clubs, and the Alumni Association. These entities work to maximize support for UNM and in return UNM provides various resources to them.

Overview of Related Entities

The UNM Lobo Club (Lobo Club) is a New Mexico nonprofit corporation and charitable organization under Internal Revenue Code Section 501(c)(3). The Lobo Club was formed in 1968 to raise funds necessary to provide financial support for student-athlete scholarships, facilities, programs that support student-athlete success and operational support to create an athletics program of excellence for UNM. According to its website, "The Lobo Club believes a successful athletics program is a source of pride for the community and the state of New Mexico and provides greater opportunities, as a whole, for UNM." The Lobo Club operates for the sole purpose of soliciting, managing and distributing private gifts and donations given for the benefit of Athletics. A Board of Directors governs the Lobo Club, and is elected annually by the membership. The Board of Directors may not exceed 40 members not including Chapter Presidents, Past Presidents and Honorary Lifetime Members. Voting members include no more than 24 elected directors, no more than three appointed by the President of Lobo Club, no more than 10 appointed by the Vice President for Athletics, one member of the annual membership drive, the VP of Athletics, the President of the UNM Alumni Lettermen's Association, Chapter Presidents or their appointees, Past Presidents of the Lobo Club and Honorary Lifetime Board Members. No more than 15 percent of the voting members may be employees, officers, or Regents of UNM or entities controlled by UNM. The Executive Director shall be the chief administrative officer of the Lobo Club. [Appendix 6](#) contains a list of Lobo Club Officers, Directors and significant employees as of June 30, 2017.

Booster Clubs are an additional source of funds for the individual sport they are supporting, called Sport Enhancement Funds. Head coaches are responsible for fundraising for their team and have discretion over how to utilize the funds raised. The Sport Enhancement Funds fall under the purview and responsibility of the Lobo Club for accounting and administration, and are therefore tax-exempt. A variety of techniques are employed to raise funds. Examples of Booster Clubs are 6th Man Club (Men's Basketball), 3 Point Club (Women's Basketball), Black Diamond Club (Ski Team), 1st Team

(Football) and Dugout Club (Baseball). Each head coach is responsible for raising money for their respective team and has discretion as to how to utilize the Sports Enhancement Funds. Head coaches work with Athletics staff, volunteers and boosters to solicit donations and contributions to their individual sports through one-on-one meetings with the coaches, barbecues, raffles, luncheons, student athlete fundraising initiatives, etc. After successful solicitation, the head coach delivers to the Lobo Club Financial Coordinator cash, check or credit card information from the fundraising efforts. The Lobo Club Financial Coordinator enters the donation information into the Lobo Club donor/pledge system and deposits the check in the Lobo Club general operating bank account. A journal entry tracks the Booster Club donations. At the end of the month, the Lobo Club writes a check to UNM for the total amount of Booster Club donations and delivers the check to Athletics. Athletics deposits the funds into the UNM main operating account, and a journal entry indexes the amount to each individual sport. This process lacks segregation of duties as coaches are responsible for initiating and receiving each transaction, as described in Finding 2017-010.

The UNM Foundation (Foundation) is a New Mexico nonprofit corporation and charitable organization under Internal Revenue Code Section 501(c)(3), formed in 1979 to solicit, receive, distribute, invest, and manage private gifts and donations given for the benefit of UNM. According to its website, “By managing funds, identifying and developing new sources of private support, encouraging the adoption of common goals, and nurturing cooperation toward meeting those goals, the Foundation allows UNM to focus more clearly on its mission to engage in comprehensive educational, research, and service programs.” The Foundation Board of Trustees consists of at least fifteen but not more than twenty-five elected Trustees, the President of UNM, two academic Deans appointed by the President of UNM and a Regent from the Regents of UNM. The Foundation President is the Chief Executive Officer and an employee of the Foundation. The President has day-to-day responsibility for the Foundation, including carrying out the Foundation’s goals and Board policy. Appendix 7 contains a list of Foundation officers, Trustees and employees relevant to this Report as of June 30, 2017.

The UNM Alumni Association (Alumni Association) is a New Mexico nonprofit corporation and charitable organization under Internal Revenue Code Section 501(c)(3), formed in 1962. According to its website, the Alumni Association’s goal is “to establish a mutually beneficial relationship between UNM and its alumni and to promote in every way the best interests, development and growth of UNM. In carrying out such purposes, the Alumni Association seeks to create, foster, develop and encourage individual and community interest in and support of UNM.” The Alumni Association Board of Directors consists of a maximum of forty members. The President of the Alumni Association may appoint up to 3 members. In addition to the 40 board members, the President of UNM’s Board of Regents appoints 2 members to the Board. Ex-officio members have no vote and cannot hold office except for the Vice President of Alumni Relations (who is a UNM employee who serves as the Executive Director and Secretary of the Alumni Association). Appendix 8 contains a list of Alumni Association officers, Directors and employees relevant to this Report as of June 30, 2017.

Overview of Relationships Among Entities

UNM, Athletics, Lobo Club, Booster Clubs, the Foundation and the Alumni Association have overlapping objectives related to Athletic functions. Due to this overlap, various agreements outline responsibilities for the Lobo Club, the Foundation and the Alumni Association. [Appendix 9](#) contains an overview of each memorandum of agreement.

Due to the interrelated mission, purpose and resources of UNM, Athletics, Lobo Club, Booster Clubs, Foundation and the Alumni Association, funding flows to and from various entities for a variety of purposes.

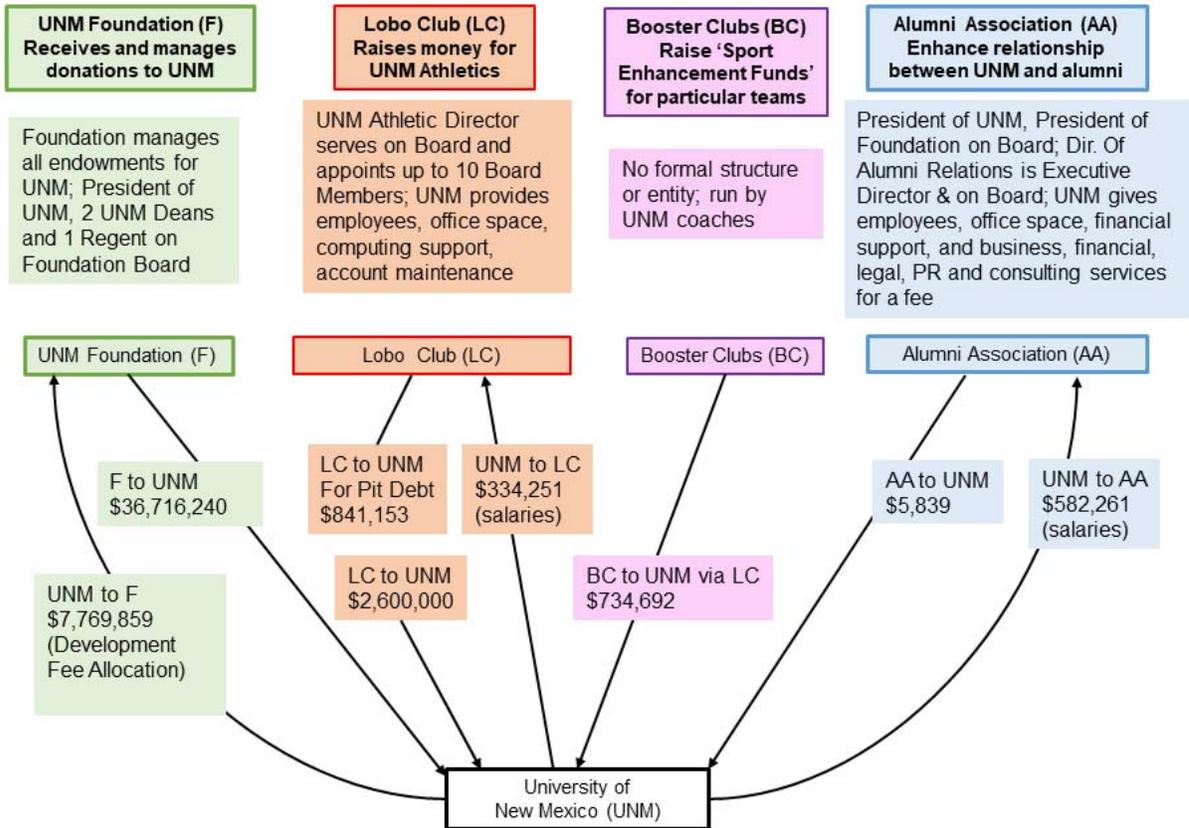
UNM provides approximately \$8 million in support to the Foundation to fund administrative and fundraising activities, while the Foundation provides UNM with investment management services and fundraising activities, and facilitates funding of scholarships, faculty, and program support through distributions to UNM. In fiscal year 2013, the UNM President's Office implemented a surcharge for the benefit of the Foundation, to broadly distribute the funding responsibility to all UNM entities that benefit from the Foundation's work. For fiscal year 2013, the surcharge was one quarter of one percent on all UNM current fund expenditures. In fiscal year 2014 and thereafter, the surcharge is one half of one percent. This annual surcharge is approximately \$5 million. The Foundation also receives a percentage of the market value of the Development Funding Allocation (DFA) - Consolidated Investment Fund on an annual basis for general support of its operations. The Foundation uses the allocation, totaling approximately \$3 million, to cover the salary and benefits of staff and other operating costs. The DFA rate was 1.6% for fiscal year 2016. The DFA rate was 1.6% for the fourth quarter of fiscal year 2015 and 1.4% for the first three quarters of fiscal year 2015 and 1.4% for fiscal year 2014. The Foundation raises funds for UNM and its various other departments and then distributes the funds to various departments in accordance with donor restrictions. The portion of the distribution that was designated for Athletics and Lobo Club in fiscal year 2017 is approximately \$150,000 and \$5,000, respectively. Foundation employees are embedded on campus to assist in raising funds for various departments throughout UNM. There are up to 24 Foundation employees utilizing office space and supplies on campus.

The Lobo Club receives staff, office facilities at the UNM Athletic Complex, equipment and certain other support at no charge from UNM and the Foundation. The Lobo Club authorizes final cash contributions for unrestricted donations to Athletics annually. As fiscal agent for Lobo Club, UNM will at times disburse funds to vendors and employees on behalf of Lobo Club. Lobo Club reimburses UNM for such disbursements. Lobo Club also collects revenue from Dreamstyle Arena (a.k.a. Pit) Suites for the benefit of UNM. Lobo Club distributes funds monthly to UNM for Pit Suite revenue.

The Alumni Association receives office space, personnel, supplies and utilities at no charge from UNM. The Alumni Association will incur certain expenditures that are at times paid through UNM. On a quarterly basis, the Alumni Association will reimburse UNM for those expenditures it has paid on behalf of the Association.

The following chart summarizes the relationships and flows of funds.

Structure of UNM Institutionally-Related Entities and FY17 Financial Information



*Figures do not include gift commitments, which are gifts that are not immediately transferred to UNM, such as endowment gifts, pledges, and estate commitments.

In summary, Lobo Club, the Foundation and Alumni Association work to maximize support for UNM and in return UNM provides various resources for all three entities. There are also several individuals that have multiple roles across UNM, Athletics, Lobo Club, Booster Clubs, the Foundation and the Alumni Association.

Appendix 3 contains a chart detailing flow of funds between organizations for Fiscal Years 2015, 2016 and 2017.

Inadequate internal controls have resulted in lost funds and other concerns

The Findings primarily detail weaknesses in the implementation of policies and procedures designed to provide financial integrity and transparency, which are referred to as “internal controls.” At the highest level, the Regents’ Policy Manual is “a guide for the Board of Regents in carrying out its constitutional responsibility for the control and management of the University of New Mexico and

as a source of information for others concerning the fundamental policies of the University and the operational procedures of the Board.” The University Administrative Policies and Procedures Manual (UAPPM) implements the Regents’ Policy Manual. The UAPPM “contains policies and descriptions of appropriate procedures, including forms, to help the user better understand the administrative processes of the University. Through the policies, the UNM Policy Office strives to clarify expectations and responsibilities, mitigate risk, enhance efficiency, and promote compliance with laws and regulations. Before new policies are issued or existing policies amended, they must be approved in writing by the President of the University.” The Executive Vice President for Administration endorses all policies in the UAPPM, and the University President approves them in writing.

The Findings in this Report identify both gaps in policy and shortcomings in implementing policy. An example of these problems is the uncollected revenue from sports marketing. Lobo Sports Properties, LLC (“Lobo Sports Properties”), is a Missouri limited liability company and wholly owned subsidiary of Learfield Communications. Learfield is listed as the Manager of Lobo Sports Properties. In January 2007, UNM entered into an agreement with Lobo Sports Properties, granting certain multi-media rights and sponsorship rights. The agreement gives Lobo Sports Properties the right to develop and market UNM athletics events, broadcast certain athletic events (television and radio), print game programs, and provide related services. In addition, Lobo Sports Properties can obtain sponsors for athletic events, teams, the Athletics website, and signage. For a fixed fee, Lobo Sports Properties has the exclusive right to the use of, and the revenues generated from, nine luxury suites in the football stadium per year. Lobo Sports Properties takes the risk that actual revenues are less than expected in exchange for also getting the benefit of any additional profits. Four Lobo Sports Properties employees work in UNM Athletics office space, for which Lobo Sports pays rent.

Because of a failure to monitor the contract, Lobo Sports Properties’ actual payments to UNM were \$256,000 less than the agreed upon amount, over the period of two fiscal years (2015-16 and 2016-17). This was compounded by a lack of oversight, because at no time did the supervisory structure that oversees Athletics notice this problem. This is discussed further in Finding 2017-002.

UNM has not always used the multiple-entity structure appropriately, putting transactions at risk for Anti-Donation Clause violations

The Foundation and the Lobo Club were established as independent nonprofits, in part, to create more flexibility to spend money for things like donor cultivation. However, once the Lobo Club transfers money to UNM Athletics, the Memorandum of Agreement between the two entities specifies that such funds “will be subject to all state laws and regulations governing the disbursement and administration of public funds and public property...” UNM used public funds to pay for donor benefits, raising issues of Anti-Donation Clause violations of the New Mexico Constitution, as discussed in Finding 2017-004. In contrast to the funds in the possession of the Lobo Club, UNM public funds are subject to the Anti-Donation Clause of the New Mexico Constitution which prohibits “any donation to or in aid of any person,” the Procurement Code, and UNM policies and procedures regarding expenditures. While University policies carve out an exception for Foundation funds to be used for donor development, no similar exception exists for Lobo Club funds; to the contrary, the

Lobo Club memorandum of agreement expressly describes funds transferred to UNM as public funds, in effect moving them under the auspice of the Anti-Donation Clause.

One instance that illustrates the problems that can arise in this context is the Athletics Department’s trip to Scotland in 2015. This was offered as a benefit to donors and announced as such at Lobo events. UNM and Anthony Travel entered into an agreement in October 2014 for the UNM Scotland Golf Tour scheduled for June 2015. The agreement stated that Anthony Travel would coordinate, negotiate, and sell the event with a total of 24 golfer packages with price ranges of \$8,189 to \$10,299 based on occupancy. Although the contract was with UNM, the Lobo Club paid a deposit of \$49,500 on October of 2014 for the estimated cost of the event. UNM also paid directly for some expenses, like airfare for UNM employees who participated.

Eighteen participants paid for their own airfare and golf packages. The Lobo Club paid for three donors’ golf packages and for airfare and golf packages for two UNM employees and one Foundation employee.

After the trip, in July 2015, Anthony Travel sent the Lobo Club a partial refund of \$35,875 due to a reduction of rooms, golfers, and tee times. After the refund, the Lobo Club had paid \$13,625 for the trip. The Director of Athletics instructed UNM Athletics to reimburse the Lobo Club for the entire amount of \$13,625 from the “contingency fund,” which is generally for student athlete grant-in-aid and contingency expenses. In May of 2017, Athletics received an anonymous \$25,000 donation to support the development and stewardship efforts of Athletics, including covering the revenue shortfalls of the trip to Scotland.

Attendee	Attendees paid by UNM:	Donations to UNM:
Donor 1	Attendee paid airfare, UNM paid the golf package totaling \$8,189	Prior to trip: \$153,766 Since trip: \$28,750
Donor 2	Attendee paid airfare, UNM paid the golf package totaling \$8,189	Prior to trip: \$62,192 Since trip: \$11,208
Donor 3	Attendee paid airfare, UNM paid the golf package totaling \$8,189	Prior to trip: \$13,510 Since trip: \$6,740
Athletics Employee 1	UNM paid for airfare and golf package	
Athletics Employee 2	UNM paid for airfare and golf package	
Foundation Employee 1	Foundation paid for airfare and reimbursed UNM for golf package	

From a donor stewardship and cultivation perspective, the trip can be viewed as a having a positive return on investment. Since the trip, UNM has received a total of approximately \$417,000 from donors who went to Scotland including nearly \$47,000 from the three donors for whom UNM paid for the golf package. In addition, one of those three donors has established a large revocable gift to be paid out of the donor’s estate upon passing.

However, from an internal controls perspective, the trip may have been a more appropriate expenditure of the Lobo Club. Because UNM paid for the trip, likely issues regarding Anti-Donation Clause violations and the propriety of the expenditures arise. Furthermore, all of the expenditures that UNM approved for the Scotland trip were duly approved in accordance with UNM policies and procedures. This suggests that those policies and procedures and the oversight structure they create are inadequate to identify this type of concern and to safeguard against violation of the Anti-Donation Clause. Finding 2017-004 discusses this in more detail.

Donor benefits create an appearance of disproportionality

Within the higher educational fundraising community, it is common practice to offer certain published and unpublished benefits to donors. Published benefits are made available to all donors who give at certain levels, and are often advertised as part of fundraising solicitations. Unpublished benefits are discretionary benefits that fundraising professionals may use to maintain good relationships with existing donors or cultivate additional giving from existing or new donors.

The rules governing tax-exempt charitable organizations like the Foundation and the Lobo Club require that an organization be operated exclusively for charitable purposes, which prohibits excessive private benefit. Fundraising professionals use an informal rule of proportionality to avoid excessive benefit and to foster confidence among donors. This means that the unpublished benefits that a donor receives should be related to the amount the donor has given and has capacity to give, and the connections that the donor may have to other prospective large donors.

OSA identified 1,014 donors or potential donors that received a benefit from UNM such as charter flights, meals, and hotel rooms. We compared each of these people to a list of approximately 680,000 donations received for the past 10 years to determine whether individuals were receiving benefits or perks that appeared to exceed the value of the donations. We identified 23 individuals who have not donated any money in the last 10 years but received benefits. Benefits included items such as charter flights, meals and certain paid expenses for Athletics related trips, as described in Finding 2016-005.

Deficiencies in internal controls also make it difficult to identify excess benefit to donors. For example, UNM purchased tickets to the Final Four Basketball tournament even when the basketball team did not qualify for the tournament. In fiscal year 2017, UNM purchased 20 tickets for \$6,941.50; in 2016, UNM purchased 12 tickets for \$4,681.00; and in 2015, UNM purchased 10 tickets for \$3,135.00, in each instance through a P-Card with UNM public funds. Supporting documentation did not state who used the tickets. Generally, the current procedures do require documentation of whom the expenditure will benefit, as described in Finding 2016-005.

Misuse of designated funds can undermine donor confidence

Under the Financial Accounting Standards Board standards that govern nonprofits like the Foundation and the Lobo Club:

A not-for-profit organization shall distinguish between contributions received with

permanent restrictions, those received with temporary restrictions, and those received without donor-imposed restrictions. A restriction on an organization's use of the assets contributed results either from a donor's explicit stipulation or from circumstances surrounding the receipt of the contribution that make clear the donor's implicit restriction on use.

Finding 2017-003 details problems that OSA identified in connection with funds that donors have restricted for a particular purpose. For example, an endowment was set up to provide scholarships to ski team student athletes. However, one of the scholarships went to a women's basketball player instead. Another endowment was to be used for ski team equipment. However, money from this fund was also used for scholarships.

The larger issues of lack of oversight and inadequate controls can have far-reaching effects. As *Nonprofit Quarterly* notes:

Trust is impaired by management's use of [restricted] funds for other purposes even if within the organization's mission. Thus, the more specific the purpose, the more trust depends upon the donor's confidence that the organization can and will meet the donor's request—i.e., trust that the organization will perform specifically as promised. This trust is forward looking and relies on foresight. It relies on the ability to anticipate and provide for contingencies. It is impaired by the inability to do so or by going contrary to the donor's stipulation even if within the mission of the organization or even if foresight was wrong.

III. SCHEDULE OF FINDINGS AND RESPONSES

Finding 2017-001 Dreamstyle (Pit) Suite Contracting, Billing and Collections Process

Condition

UNM renovated Dreamstyle Arena in early 2010 and the first sales of suites and club seats began in 2010. UNM owns the Dreamstyle Arena but Lobo Club manages the sale of suites and club seats. However, there is no formal documentation of this arrangement between UNM and the Lobo Club. Lobo Sports Properties (a private contractor that UNM engaged to cultivate donor relations and obtain sponsorships) has occasionally sold suites and club seats as part of a package. When Lobo Sports Properties sells a suite or club seat, Lobo Club bills Lobo Sports Properties for the amount sold. There are 40 suites and approximately 150 club seats. The UNM Board of Regents, UNM President's Office/Foundation (shared Suite) and UNM Medical Sciences Department each purchase one suite per year.

OSA evaluated processes and documentation for use of Dreamstyle Arena (the Pit) suites and club seats. During the evaluation, we noted that UNM Athletics and Lobo Club lacked policies and procedures related to the administration of the Suites and Club seats. We noted inconsistencies in the amounts charged, and the process for obtaining valid contracts and preparing invoices. Lobo Club

receives and distributes funds, if applicable, to UNM for the Suite and Club seats on a monthly basis. The Director of Premium Seating is responsible for collection of amounts due for the Suites and Club seats.

OSA evaluated the reported outstanding balance of 42 transactions totaling \$432,641 at June 30, 2017. We noted:

- Lobo Club is responsible for the sale and marketing of the Suites, however UNM signs the Suite contracts.
- Suite and Club seat tickets are distributed based on a list prepared by the Director of Premium Seating regardless of whether a payment has been received.
- 12 of the 25 accounts with uncollected balances did not have a signed contract in place with the Suite holder.
- 19 accounts of the 25 accounts with uncollected balances did not have documentation of invoices prior to July 1, 2017.

Of a total \$432,641 owed, \$329,502 was for suites for which UNM had no contract, and \$103,139 was for suites under contract or for club seats requiring no contract. As of September 1, 2017, \$238,791.70 remained uncollected.

Uncollected Revenue from Pit Suites and Club Seats

Suite Holder	Contract – yes Invoice - yes	Contract - no Invoice - yes	Contract – yes or not applicable (club seats) Invoice – No	Contract – no Invoice - no	Status
Suite Holder 1		\$80,002			Contested
Suite Holder 2				\$67,500	Contested
Suite Holder 3				\$42,500	Contested
Suite Holder 4				\$40,000	Negotiated agreement
Suite Holder 5				\$30,000	Paid
Suite Holder 6				\$21,250	Agreed to pay
Suite Holder 7			\$21,250		Paid
Suite Holder 8			\$20,500		Contested
Suite Holder 9				\$14,250	Partially paid
Suite Holder 10			\$13,864		Paid
Suite Holder 11		\$12,750			Contested
Suite Holder 12	\$10,625				Paid in full
Suite Holder 13				\$9,000	Contested
Suite Holder 14	\$8,500				

Suite Holder	Contract – yes Invoice - yes	Contract - no Invoice - yes	Contract – yes or not applicable (club seats) Invoice – No	Contract – no Invoice - no	Status
Suite Holder 15	\$8,250				Paid
Suite Holder 16				\$7,500	
Suite Holder 17			\$7,400		
Suite Holder 18				\$4,500	
Suite Holder 19			\$ 4,125		
Suite Holder 20			\$3,000		
Suite Holder 21			\$2,500		Paid
Suite Holder 22			\$1,500		
Suite Holder 23			\$1,125		Paid
Suite Holder 24	\$500				Paid
Suite Holder 25				\$250	
Totals	\$27,875	\$92,752	\$75,264	\$236,750	

Criteria

Effective internal controls assist Lobo Club in achieving its objective to raise funds necessary to provide financial support for Athletics. In addition, management is responsible for the design, implementation and maintenance of internal control to demonstrate Lobo Club’s ability to record, process, summarize, and report transactions and support financial statement assertions of completeness, valuation, existence and occurrence. The COSO Internal Control – Integrated Framework outlines the components, principles, and factors necessary for an organization to effectively manage its risks through the implementation of internal control. Clear responsibilities must be defined so that each group understands their role in addressing risk and control, the aspects for which they are accountable and how they will coordinate their efforts with each other. Lack of processes increases the risk that revenues are not being collected and transactions could be inaccurately recorded and reported.

Cause

Suite and club seat tickets are generated and distributed without checking whether UNM has received payment. In addition, suite and club seats distributed are not recorded in an accounting system as amounts due to Lobo Club. The system lacks formalized processes for the sales and collection of revenue for the Suites and Club seats, and communication regarding processes or expectations for sale and collection of revenues from Suites and Club seats. In addition, there is no documentation for suites that are split among multiple parties, or for which there was an expectation of in-kind compensation.

Effect

As of September 1, 2017, \$238,791.70 remained uncollected for suite and club seats.

Recommendation

The current informal and diffused duties and delegation of responsibilities across the Lobo Club, UNM Athletics and contracted firms dilutes clear lines of accountability and oversight. Lobo Club should formalize a process for Suites and Club seats that specifies the amounts to charge, completion of contracts, invoicing for amounts due and collection of amounts due. Lobo Club should communicate the standard amount or range of amounts expected to be collected for suites and club seats and the process for documenting any variances from the standard range. Lobo Club should also ensure contracts and payments are completed before tickets are distributed. Invoices should be sent regularly and a collection process should be implemented to ensure that revenues are collected timely. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding and has devoted staff resources to collection efforts for the outstanding receivables for the Pit Suites and Club Seats (\$432,641 as of June 30, 2017). The current collection efforts by UNM's Athletics Department identified a \$45,000 reduction to the total amount owed attributable to incorrectly recorded receivables. Between June 30, 2017, and October 31, 2017, the Athletics Department collected \$186,864, leaving a balance owed of \$200,777. As of October 31, 2017, the University estimates an additional \$32,415 may be collectible. A remaining \$168,362 may not be collectible due to the absence of valid written suite sale agreements, insufficient records related to ticket disbursements, and/or Suite Holders who are no longer in business or who have left the area.

UNM has revised its standardized Suite Agreement to strengthen the contract between the Suite Holder and the University. The Athletics Department also has implemented a tracking process to manage suite receivables and ensure that Suite Holders with outstanding balances will not receive event tickets that would allow access to suites.

In addition, UNM is in the process of revising and updating the May 17, 2015 Memorandum of Agreement (MOA) between the Board of Regents, UNM Foundation, and the Lobo Club to clearly define the roles and responsibilities of all parties to the agreement. The goal is to put this MOA in place after the new President starts work. The revised MOA will include a designation of which organization will be responsible for fundraising activities and associated expenses; collection and accounting of funds owed and paid; and reporting obligations. The University will ensure that

contracts for suites are completed and payments are received before event tickets are distributed.

Finding 2017-002 Monitoring of Contract Compliance – Control Deficiency

Condition

As discussed above, in 2007, UNM entered into an agreement with Lobo Sports Properties, granting certain multi-media rights and sponsorship rights. The Agreement was renewed with an effective date of January 1, 2013 with a term that extends to June 30, 2020. The agreement gives Lobo Sports Properties the right to develop and market UNM athletics events, broadcast certain athletic events (television and radio), print game programs, and provide related services. In addition, Lobo Sports Properties can obtain sponsors for athletic events, teams, the Athletics website, and signage. For a fixed fee, Lobo Sports Properties has the exclusive right to the use of, and the revenues generated from, nine luxury suites in the football stadium per year. Lobo Sports Properties pays UNM \$4.5 million per year, and Lobo Sports Properties take the risk that actual revenues are less than that in exchange for also getting the benefit of any additional profits. Four Lobo Sports Properties employees work in UNM Athletics office space, for which Lobo Sports pays rent.

UNM Athletic Department entered into contracts with Lobo Sports Properties LLC, which required Lobo Sports Properties to pay the amount shown below. Actual payments to UNM were \$256,000 less than the agreed upon amount, over the period of two fiscal years.

	2015-16	2016-17
Licensing and Rights	\$ 4,668,000	\$ 4,768,000
Suite Sales	\$ 158,000	\$ 158,000
Credits	\$ (17,500)	\$ (47,500)
NM Bowl	\$ 10,000	\$ 10,000
Office/Parking	\$ 20,000	\$ 20,000
Bonus Payment	\$ 250,000	\$ 250,000
Total Payments Due to UNM	\$ 5,088,500	\$ 5,158,500
Total Paid	\$ 5,020,500	\$ 4,970,500
Underpayment	\$ (68,000)	\$ (188,000)
Total Underpayment		\$ (256,000)

UNM Athletics has not effectively monitored contract compliance for executed contracts, which has led to an uncollected balance due to UNM.

UNM Athletics submitted a proposed modification to the Lobo Sports Properties contract which would have lowered the Licensing Fees due to UNM. However, that modification was never executed. The payments that UNM received in 2015-16 and 2016-17 were in compliance with this

unexecuted agreement, but absent a settlement with Lobo Sports Properties, this would not be appropriate.

Criteria

Administrative Policies and Procedures Manual - Policy 2015: Contract Monitoring states that the “contract monitor is responsible for monitoring that contract requirements are satisfied, goods and services are delivered in a timely manner, safety and risk issues are addressed, and required payments are approved.” Contracts should be monitored for performance to ensure goods and services conform to the contract requirements. The contract monitor should report the status on all open contracts at the close of each fiscal year and upon completion of the contract. At a minimum, the contract monitor should review each contractor’s invoices, reconcile and verify payments consistent with the contract terms, and maintain proper documentation. In addition, the contract monitor is responsible for reporting on a timely basis to the administrator who signed the contract any unresolved discrepancies and/or problems.

Cause

UNM Athletics Department did not follow University procedures on contract monitoring and enforcement. Oversight was inadequate to identify and correct the problem.

Effect

The University lost revenue because of inadequate contract monitoring and enforcement.

Recommendation

We recommend that additional policies and procedures be implemented related to controls over contract compliance in Athletics, including ensuring a responsible person is established within the department to ensure agreements are monitored and executed as appropriate. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding and the Athletics Department has implemented contract administration standards that require written execution of contract amendments prior to implementation of the amendments. The underpayment amount has been communicated to the third-party vendor by the Athletics Director, and an invoice for the amount owed will be generated and delivered.

The Athletics Department and other University units have taken corrective actions and implemented UNM's Internal Audit recommendations to strengthen internal controls and improve accountability. The senior leadership at UNM will carefully and thoroughly examine the suggested recommendations in the report and take appropriate corrective action to make additional improvements to the internal controls.

Finding 2017-003 Use of Donated Funds Not in Accordance with Donor Intent

Condition

During our testwork we noted that funds were not spent in accordance with donor intent. There were two instances where supporting documentation for endowment expenditures did not agree with the donor's intent or was insufficient to support a determination. One endowment was established to provide scholarships to ski team student athletes. However, one of the scholarships went to a women's basketball player instead. Athletics was unable to provide an explanation as to why this occurred. The other endowment was to be used for ski team equipment but was used for scholarships. Athletics was unable to provide an explanation as to why this occurred. These donations in question were given with the instruction that they be used for their designated purposes at the discretion of the ski coach. However, per discussion with the ski coach, Athletics used these funds without consulting him.

Criteria

Per the Memorandum of Agreement between the Regents of the University of New Mexico and the Foundation (MOA), the Foundation provides a corporate structure for managing private gifts and donations, including endowments, and provides added assurance to donors that their contributions will be distributed and utilized for the specified purposes. Section 8.1 of the MOA states that the *University* agrees to assume the responsibility of monitoring the expenditures or income disbursements from both non-endowed gift accounts and endowed spending accounts to ensure that any and all donor-imposed restrictions are honored.

Cause

UNM did not maintain proper financial oversight over their entrusted endowments to ensure they were spent according to the donors' wishes. This duty was further hindered by the informal nature in which many University organizations conduct financial transactions. As noted in other sections of this Report, the lack of centralized monitoring fostered an environment that made oversight challenging, and in some cases, impossible.

Effect

Donors can take their endowed funds away from UNM or from Athletics if the donor-imposed restrictions are not maintained.

Recommendation

The University awards over 22,000 scholarships per year. UNM should implement procedures to ensure compliance with donor-imposed restrictions when spending endowed funds. UNM should also ensure all supporting documentation for such expenditures is maintained so that management can demonstrate proper spending of the funds. Proper training of the staff responsible for utilization of these endowments should include system access and training to ensure these employees know where to find donor restrictions. Monitoring controls should also be put in place to detect if errors like this occur. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding. The Office of the State Auditor (OSA) noted two instances where supporting documentation for endowment expenditures did not agree with the Donor's intent or was insufficient to determine whether the donor's intent was satisfied. In the first instance, during the closure of the fiscal year and posting of Allocation Journal Entries, the Athletics Department made a clerical error whereby a scholarship for a member of the women's basketball team was inadvertently charged to the wrong Index/Account. In the second instance, a pre-existing donor agreement was amended on October 19, 2016, from allowing scholarships to only allowing the purchase of ski team equipment. This amendment regarding the use (intent) of funds was not communicated to the Athletics Department Business Office, which resulted in an expenditure that did not meet the donor's amended intent. During Fiscal Year 2018, the Athletics Department Business Office has corrected the incorrect entries from the prior fiscal year.

Going forward, the University will strengthen internal control whereby the Athletics Department Business Office staff will be required to prepare and post Journal Entries on a monthly basis rather than waiting until end of the fiscal year. The Athletics Department's Chief Financial Officer will be required to review all supporting documents prior to approving Journal Entries for posting in the financial accounting system to ensure compliance with the donor intent and with applicable University policies and procedures.

Finally, in conjunction with this fiscal year's internal audit of the administration of the Athletics Department, the University's Internal Audit Department will also audit compliance with donor intent for other disbursements of endowment funds.

Finding 2017-004 Use of Public Funds for Donor Activities and Possible Anti-Donation Clause Issues

Condition

During our testwork we noted several instances of individuals receiving private benefit from public funds, as listed below. While these expenditures may be appropriate for donor stewardship and cultivation, using public funds (rather than Foundation or Lobo Club funds) for these expenditures creates concern:

- UNM Athletics reimbursed the Lobo Club for \$13,625 in connection with a donor golf trip to Scotland. This is described in more detail in the narrative above. In addition, UNM Athletics paid the golf package fees of \$24,567 for three donors to attend the trip.
- UNM Athletics purchased ten Final Four tickets for \$3,135 in 2015, 12 Final Four tickets for \$4,681 in 2016 and 20 Final Four tickets for \$6,941.50 in 2017. UNM Athletics also purchased two football National Championship tickets for \$1,325 in 2016 and two National Championship tickets for \$1,375 in 2017. The expenditures did not list who would receive the tickets and the business purpose of the purchase.
- UNM Athletics spent \$780 for pendants given to Lobo Women's Society, a Booster club for all women's sports at UNM.
- UNM Athletics spent \$5,980 for a 2015 Alumni Letterman donor cultivation golf outing at UNM Golf Course.
- UNM Athletics spent \$5,184 for a 2016 Donor and Alumni cultivation golf trip to Isleta Eagle Golf Course.
- UNM Athletics spent \$7,449.45 for a 2014 Golf outing for baseball fundraising at Sandia Casino, including green fees, golf carts, and alcohol.
- UNM Athletics purchased meals and travel and gave away 19 Lobo football season passes to individuals. The documentation suggested that the expenditures were donor benefits.

In addition, we tested all Athletics expenditures paid by the Foundation during the fiscal years ended 2015, 2016 and 2017; 50 of the largest Athletics-related expenditures paid by the Alumni Association during the fiscal years ended 2015, 2016 and 2017; and travel expenditures over \$25, expense reimbursements of two employees and other P-Card and expense reimbursements over \$2,500 from the Lobo Club during the fiscal years ended 2015, 2016 and 2017. The OSA identified several expenditures that, while allowable, may raise concerns from the public about excessive spending. Appendix 4 contains a list of those expenditures.

Criteria

UNM funds must be used in accordance with laws, regulations and policies governing public funds. Even if funds originated with the Lobo Club, once the Lobo Club transfers money to UNM, the Memorandum of Agreement between the two entities specifies that such funds “will be subject to all state laws and regulations governing the disbursement and administration of public funds and public property....” UNM used public funds to pay for donor benefits, potentially violating the Anti-Donation Clause of the New Mexico Constitution, In contrast to the funds in the possession of the Lobo Club, UNM public funds are subject to the Anti-Donation Clause of the New Mexico Constitution which prohibits “any donation to or in aid of any person,” the Procurement Code, and UNM policies and procedures regarding expenditures. While University Administrative Policy 4000.13 carves out an exception for UNM to use Foundation funds for donor development, no similar exception exists for Lobo Club funds.

Article IX, Section 14 of the New Mexico Constitution (the Anti-Donation Clause) sets forth the requirement that government entities not make any donation to or in aid of any person, association or public or private corporation.

Public funds must be expended in accordance with the Procurement Code, NMSA 1978, Section 13-1-28 et seq.

Cause

UNM did not consistently follow policies and procedures regarding public money when making expenditures for donor cultivation and stewardship. UNM did not segregate Lobo Club funds or document that the funds used for donor cultivation and stewardship were not public funds.

Effect

Public funds may have been used for donor development.

Recommendation

UNM should implement procedures that allow the tracking of non-public funds that may be used for purposes that public funds cannot. UNM should consider amending the Memorandum of Agreement with the Lobo Club to allow for transfers from the Lobo Club to UNM to be segregated and used for donor development, similar to the provision in the UNM Foundation agreement. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding, and is in the process of revising and updating the May 17, 2015 Memorandum of Agreement (MOA) between the Board of Regents, UNM Foundation, and the Lobo Club to clearly define roles and responsibilities of all parties in the agreement. The revised MOA will also articulate each entity’s financial expectations and obligations.

The University President will send out a formal written communication to all Athletics areas mandating that fundraising activities must be planned and conducted through the UNM Foundation or Lobo Club, and that all associated fundraising expenses should be paid from the Foundation or Lobo Club accounts.

The University is in the process of transferring all developmental (enhancement accounts) to the UNM Foundation or Lobo Club, as appropriate. All benefits of value offered to donors, including NCAA tickets (with the exception of tickets provided to the Athletics Director as part of his employment contract with UNM) will be paid by the UNM Foundation or Lobo Club as appropriate.

Finding 2017-005 Disproportionate Donor Benefit

Condition

UNM Athletics, Lobo Club, and booster clubs build relationships with donors and prospective donors using a variety of published and unpublished benefits. Examples of unpublished discretionary benefits we noted include items such as flights on charter planes with UNM teams, participation in golf tournaments, attendance at hospitality events, free meals and use of Pit Suites.

The rules governing tax-exempt charitable organizations require that an organization be operated exclusively for charitable purposes, which prohibits excessive private benefit. Fundraising professionals use an informal rule of proportionality to avoid excessive benefit and to foster confidence among donors. This means that the unpublished benefits that a donor receives should be related to the amount the donor has given and has capacity to give, and the connections that the donor may have to other prospective large donors.

The OSA identified 23 recipients of “donor perks” from UNM Athletics who had not made any monetary contributions to UNM or its related entities. There was no documentation or oversight to ensure that the benefits were justified because of future donor potential or in-kind contributions.

Beneficiary	Documented Donations in past 10 years	Charter flight	Inclusive Golf Trip	Lobo Football Season Passes	Hotel	Meal Drinks /
Beneficiary 1	\$0	1			1	2

Beneficiary	Documented Donations in past 10 years	Charter flight	Inclusive Golf Trip	Lobo Football Season Passes	Hotel	Meal / Drinks
Beneficiary 2	\$0	1			1	1
Beneficiary 3	\$0	1			1	
Beneficiary 4	\$0**	1			1	
Beneficiary 5	\$0	1				1
Beneficiary 6	\$0	1				
Beneficiary 7	\$0*	1				
Beneficiary 8	\$0	1				
Beneficiary 9	\$0*	1				
Beneficiary 10	\$0	1				
Beneficiary 11	\$0	1				
Beneficiary 12	\$0	1				
Beneficiary 13	\$0	1				
Beneficiary 14	\$0	1				
Beneficiary 15	\$0*	1				
Beneficiary 16	\$0*	1				
Beneficiary 17	\$0		2			
Beneficiary 18	\$0		2			
Beneficiary 19	\$0		1			
Beneficiary 20	\$0**			4		
Beneficiary 21	\$0**			4		
Beneficiary 22	\$0**			4		
Beneficiary 23	\$0**			3		

* The Beneficiaries marked with one asterisk are people who OSA was able to identify as possibly being non-Athletics employees of UNM. In these instances, there may have been employment-related reasons for the benefits received, but nothing was documented.

** The Beneficiaries marked with two asterisks are related to businesses that OSA was able to identify as possibly having in-kind donation relationships that justified the benefits, but nothing was documented.

This list excludes persons who have received benefits and were not documented as donors but were (i) Athletics employees, (ii) documented owners of corporate donors, (iii) family members of donors or Athletics employees, or (iv) independent contractors with a University-wide scope.

Criteria

UNM Administrative Policy 4000.6. Personal Benefit reads:

It is prohibited to use University funds for any type of personal benefit, other than for salary and benefits to which employees are entitled under University policy. Common examples of personal expenses that cannot be reimbursed with University funds are listed below:

Gifts. The purchase of personal gifts, including flowers and other gifts expressing sympathy, bereavement, or congratulations to faculty, staff, students, or their families is prohibited, unless approved by other University published policy (such as the employee service awards discussed in UAP 3745 (“Service Awards”).

Cause

A lack of transparency and oversight, including the lack of a policy for ensuring that the recipients of “donor perks” have contributed to the University. Lack of documentation as to other justifications for distributing perks, such as in-kind donations or donation potential.

Effect

Persons who have not donated to the University may be receiving perks intended for donors.

Recommendation

UNM should establish oversight and disclosure to ensure that persons who receive perks intended for donors are donors or donor prospects, and receive perks paid for with appropriate funds. UNM and its related entities should implement consistent procedures to document in-kind contributions like courtesy car arrangements with car dealerships and cross-promotional initiatives. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding. UNM is in the process of revising and updating the May 17, 2015 Memorandum of Agreement (MOA) between the Board of Regents, UNM Foundation, and the Lobo Club to clearly define the roles and responsibilities of all parties to the agreement. This revised MOA will require monthly expenditure tracking by the University, UNM Foundation, and the Lobo Club to ensure that benefits intended for donors or prospective donors are paid with appropriate funds. The monthly reporting will include tracking of any in-kind contributions from donors when

applicable.

Finding 2017-006 Overpayments to Coaches

Condition

During our testwork on compensation for coaches, OSA found overpayments in three out of nine Athletics positions, all of which were subsequently repaid. The OSA reviewed compensation files and noted the following:

- Coach 1 renegotiated a contract for a term of July 1, 2014, through June 30, 2018. Terms of the renegotiation included increasing deferred compensation. For the fiscal year ended June 30, 2014, the UNM Regents awarded all full-time UNM employees a 2.5% salary increase. Athletics sent a memorandum to Main Campus Human Resources listing all employees who should be excluded from the salary increase, and Coach 1 was included on the list. Despite being on the exclusion list, Coach 1 received a salary increase and was overpaid a total of \$1,185.65 between July 2014 to December 2014. Coach 1 discovered the error and notified Main Campus Human Resources. Coach 1 repaid the overpayment in full through payroll deductions from March 2015 to June 2015.
- Coach 2 was an Assistant Head Coach promoted to Head Coach on April 8, 2013. The contract as Assistant Head Coach had a term of April 1, 2013, through March 31, 2014 with extra compensation of \$12,250/month in non-standard payments (NSP). New NSP information was entered into the system when Coach 2 was promoted to Head Coach and the superseded NSP information was not deleted. The Main Campus Human Resources system automatically keeps NSP in place until the end of the contract. Between May 2013 and March 2014 Coach 2 was overpaid \$144,215.91 of gross wages. After adjusting for withholding of payroll taxes already remitted to taxing authorities, the amount that Coach 2 was required to repay equaled \$123,710.80. Coach 2 inquired why his salary decreased in April 2014 when the old NSP expired. Coach 2 repaid the overpayment in full through payroll deductions from July 2014 through June 2015.
- Coach 3 renegotiated his contract in June 2013 which included increases to his compensation. A new NSP form was submitted in June 2013 to reflect these changes, however the new NSP form did not state that the prior NSP needed to be cancelled. The superseded NSP remained in effect from July 1, 2013, until February 28, 2015 when Athletics discovered the error. The superseded NSP included \$2,341.67/month for media resulting in an overpayment to Coach 3 of \$39,601.26. Coach 3 repaid the overpayment in full by June 2017 through payroll deductions and payments.

Criteria

Good accounting practices require UNM to implement and follow sound accounting and internal control policies and procedures. Effective internal controls assist in demonstrating UNM's ability to record, process, summarize and report transactions and support financial statement assertions of existence and occurrence, rights and obligations, and accuracy and classification. The COSO Internal Control – Integrated Framework outlines the components, principles, and factors necessary for an organization to effectively manage its risks through the implementation of internal control. Clear responsibilities must be defined so that each group understands their role in addressing risk and control, the aspects for which they are accountable and how they will coordinate their efforts with each other. Insufficient control activities and/or monitoring and review increases the risk that transactions could occur and could be recorded and reported at inappropriate amounts.

Cause

New NSP amounts were entered into the payroll module without removing the amounts for the superseded NSP form. The current NSP form does not have a place for departments to state the end date for prior NSPs and effective date for new NSPs. Main Campus Human Resources can only end a NSP with notification from a department and Athletics does not have access to the information entered in Banner for the active NSP. Employees are unable to see the detail of the extra compensation on their paystubs, employee earnings are shown by earn code. For example, earn code 200 includes program promotion, media participation/cooperation, and endorsement agreements and are shown as one line item on the employee's paystub. This makes it difficult for the employee to determine if their extra compensation is correct.

Effect

Three coaches were overpaid a total amount of \$185,002.82.

Recommendation

Communication regarding NSPs could be improved. It was noted that Main Campus Human Resources is working on a report to provide departments with the information on active NSPs. Main Campus Human Resources and payroll should evaluate the NSP processes to determine if control procedures may be added to the process of entering data. Payroll should evaluate procedures to determine if a different process may be implemented for review of payroll amounts to identify possible overpayments. Main Campus Human Resources and payroll should evaluate procedures that may be implemented to show the detail of extra compensation on the employee's paystub.

Response

The University agrees with the finding and has implemented the following changes for processing Nonstandard Payments (NSP) to proactively avoid overpayments.

The Payroll Department worked very closely with the Athletics Department and the affected

employees to insure the overpayment mistakes were corrected and the overpaid amounts were paid back within the time periods stated in this review. Amounts owed and payback arrangements were communicated as soon as the overpayments were discovered. It should be noted that these overpayments occurred due to the complexity of the various payment streams to these coaches. 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.

Effective FY18, the Athletics Department Human Resources Office will create a spreadsheet annually that includes all compensation-related details for coaches' contracts. If any changes occur in a contract during the fiscal year, Athletics HR staff will send the updated information to the UNM Division of Human Resources and the Athletics Department Chief Financial Officer, in order to monitor whether the proper amount has been paid on a monthly basis. This requirement will ensure payments made to coaches are consistent with the terms of each contract. Any errors will be identified in a timely manner to ensure prompt collection of overpayment. 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. Finally, the UNM Division of Human Resources is working with the Office of University Counsel to modify the current employment contract/addendum amendment process. Currently, when a portion of a coach's contract is changed, an amendment to the addendum is issued addressing only the terms that have changed. Going forward, the Division of Human Resources recommends that a new addendum be created in its entirety whenever there is a change in the terms of employment beyond a change in salary or duration.

Finding 2017-007 Expense Reimbursement and P-Card Transactions

Condition

During our expense reimbursement testwork, OSA tested a total of 470 transactions. During testing of credit card transactions (P-Card), OSA tested 1,960 transactions. From both sets of testwork the OSA noted the following:

- 14 instances with insufficient business purpose documented to determine the propriety of the transaction, totaling \$37,280.31.
- One instance that the purchase should have gone through the procurement process, totaling \$37,603.13. The P-Card payment was made for a computer software and maintenance contract. The procurement department granted a one-time exception after the payment was made stating that similar purchases need to go through the purchasing manager in the procurement department.
- 9 instances of insufficient documentation supporting a P-Card transaction, totaling \$31,003.62.

- Five instances of spouses traveling with employees with no indication that the spouses' airfare was included as taxable income to the employee as required by the contracts, totaling \$1,402.90.
- Two instances had insufficient supporting documentation or no supporting documentation, totaling \$194.12.
- Six instances without documentation or insufficient documentation of the business purpose for per diem, totaling \$1,864.67.
- Two instances of a supervisor approving reimbursement to an employee for expenses related to the supervisor, totaling \$1,575.13.
- One instance that an employee was reimbursed for expenses previously paid for by UNM, totaling \$495.00.
- Two instances that a UNM P-Card paid airfare for a golf excursion to Las Vegas, NV for individuals outside of UNM, totaling \$716.00.
- One instance that per diem of \$68.00 was paid for the same day that expense reimbursements were paid for meals in the amount of \$74.20.

Criteria

Good accounting practices require UNM to implement and follow sound accounting and internal control policies and procedures. Effective internal controls assist in demonstrating UNM's ability to record, process, summarize and report transactions and support financial statement assertions of existence or occurrence and accuracy or classification. The COSO Internal Control – Integrated Framework outlines the components, principles, and factors necessary for an organization to effectively manage its risks through the implementation of internal control. Clear responsibilities must be defined so that each group understands their role in addressing risk and control, the aspects for which they are accountable and how they will coordinate their efforts with each other. Lack of consistent processes increases the risk that unauthorized transactions could occur and transactions could be inaccurately recorded and reported.

Section 10-8-5 NMSA 1978 states that public funds shall be paid out under the Per Diem and Mileage Act only upon vouchers duly presented with any required receipts attached thereto.

UNM Purchasing and Accounts Payable Policies and Procedures require proper documentation including original receipts or cancelled checks (if paid receipt is not available) for all reimbursements.

UNM P-Card Policies and Procedures require that Cardholders secure and retain appropriate documentation to support each purchase charged to the P-Card, enter index and account code, ensure that a valid business purpose exists for every transaction and attain a detailed receipt. Violations include purchases of prohibited items and travel purchased for unauthorized travelers.

UNM purchasing policies and procedures require that goods and/or services not be rendered or solicited until a Purchase Order is approved and disseminated by the Purchasing department.

Cause

Lack of oversight and inconsistent internal controls over expense reimbursements. UNM did not consistently follow policies and procedures to ensure that documentation is properly reviewed to ensure compliance with policies and State statutes. Insufficient supervision and/or employees' lack of understanding policy, laws, rules, and regulations. Unauthorized expenditures may be processed and paid without proper approval and supporting documentation. Noncompliance with statutes may subject officials and employees to penalties as defined by State statutes. Noncompliance with UNM policy and procedures.

Effect

Unauthorized expenditures may be processed and paid without proper approval and supporting documentation. Noncompliance with statutes may subject officials and employees to penalties as defined by State statutes. Noncompliance with UNM policy and procedures. Excessive expenses reduce the amount of funds available to support UNM operations.

Recommendation

UNM should implement procedures that include reviewing all supporting documentation and retaining appropriate documents to ensure compliance with relevant statutes, regulations and policies. Supporting documentation should contain a valid business purpose. Procedures should include evaluation of the supporting documentation to determine the validity and appropriateness of the business purpose; payment method utilized to pay for expenses where reimbursement is requested to ensure the charges were not originally paid for with a UNM P-Card; ensure per diem is not claimed for the same dates that actual expenses are reimbursed; proper approval was obtained, and the approver should not have been involved in incurring the charges. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding. The University's Athletics Director will review all P-Card (purchase card) transactions initiated by the executive assistant to ensure that all documentation in support of transactions are for valid University business purpose, and that expenditures are in compliance with University policies and are allowable uses of public funds. The Athletics Department Business Office will be required to follow similar standard in their review and approval of all transactions processed for other Athletics Department units. The University implemented Chrome River business management software in December of 2016. This system update allows for

improved timeliness of P-Card transaction reviews, including required approval for appropriateness, adequate supporting documentation, and compliance and adherence with the University policies.

The Athletics Department will be required to work with the University Information Technology Services (ITS) to either obtain technology consulting, proactive technology management, network administration, etc., services from ITS or issue a formal request for proposal no later than March 31, 2018, for these services. The University Controller will work with the Athletics Director to develop and implement a documentation form for spousal expenses by March 31, 2018, to track taxable income for employees. Finally, the Athletics Department is in the process of creating a written Business Office Procedures Manual with an anticipated completion date in March 2018, which will guide the department to ensure compliance with the University Policies in disbursing public funds.

Finding 2017-008 Cash Advance Transactions

Condition

During our cash advance testwork we tested 435 transactions and noted the following:

- 67 transactions did not follow specific cash advance procedures (e.g. did not obtain proper approvals, did not reconcile cash used, etc.; single transactions are listed under multiple bullets), totaling \$81,572.50. Among these transactions:
 - 17 instances that the required email was not sent to the appropriate athletics and business office personnel or prior authorization was not obtained, totaling \$16,188.40.
 - 11 instances that cash reconciliation was not completed timely upon the end of the trip, totaling \$9,577.90.
 - 13 instances of insufficient supporting documentation to validate the cash withdrawn and/or spent, totaling \$9,915.40.
 - One instance that the deposit of unused funds was not coded to the same account as the initial withdrawal, totaling \$21,780.
 - 21 instances without student or staff acknowledgement signatures to indicate they received the cash allocated to them, totaling \$17,871.90.
- Four instances of cash advances for team per diems that the team member signature sheet, indicating students received cash, appears to be signed by one person signing multiple names, totaling \$6,238.90.

Criteria

Good accounting practices require UNM to implement and follow sound accounting and internal control policies and procedures. Effective internal controls assist in demonstrating UNM's ability to record, process, summarize and report transactions and support financial statement assertions of existence and occurrence, and accuracy and classification. The COSO Internal Control – Integrated Framework outlines the components, principles, and factors necessary for an organization to

effectively manage its risks through the implementation of internal control. Clear responsibilities must be defined so that each group understands their role in addressing risk and control, the aspects for which they are accountable and how they will coordinate their efforts with each other. Lack of consistent processes increases the risk that unauthorized transactions could occur and transactions could be inaccurately recorded and reported.

UNM Cash Advance Guidelines restrict the uses for cash advances to situations in which cash is the only acceptable means of payment. The P-Card holder is responsible for obtaining a receipt or other documentation to support all cash purchases. Any unspent cash must be deposited immediately upon return from travel, and the deposit should be coded to the expense account code to which the expense was charged.

Per Section 6-10-3 NMSA 1978, all public money in the custody or under the control of any state official or agency obtained or received by any official or agency from any source must be deposited before the close of the next business day after the receipt of money.

Cause

Lack of oversight and inconsistent internal controls over Cash Advances. UNM did not consistently follow policies and procedures to ensure that documentation is properly reviewed to ensure compliance with policies and State statutes. Insufficient supervision and/or employees' failure to understand policy, laws, rules, and regulations.

Effect

Increased risk of misappropriation of cash. Noncompliance with statutes may subject officials and employees to penalties as defined by State statutes. Noncompliance with UNM policy and procedures.

Recommendation

UNM should implement procedures that include reviewing all supporting documentation and retaining all documents to ensure compliance with relevant statutes, regulations and policies. UNM should provide regular training regarding the P-Card Cash Advance policies and procedures. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding and has implemented the following changes. The Athletics Department now issues prepaid debit cards to student-athletes for allowed amounts for meals while

on travel status and/or when school is on break in compliance with the NCAA and Mountain West Conference rules to minimize cash withdrawals at ATMs. When a cash advance may be necessary for meal money, signatures of each individual who receives cash for meals will be required. The Athletics Department is also in the process of rebuilding the staffing levels within the Athletics Department Business Office to ensure adequate staffing to better track cash advance transactions. Finally, in conjunction with this fiscal year internal audit of the administration of the Athletics Department, UNM's Internal Audit Department will audit Chrome River transactions and prepaid debit card transactions to ensure compliance with University policies.

Finding 2017-009 Employee Potential Conflict of Interest

Condition

OSA received allegations that the separation of a former UNM employee was structured to allow the former employee to earn a certain number of NM Education Retirement Board (ERB) service credits. The employee had been with UNM's Athletics Department for nine years. In contemplating plans for separation, the employee sent an email to the VP of Athletics stating, "In fighting for service time or compensation, please keep in mind the extra service put forth in the areas of interim women's tennis coach, lobo club director and fundraiser over the last 4 years." The VP of Athletics responded, stating, "I now find myself in the very uncomfortable and awkward position of trying to be helpful to you while representing the interest of the University in these discussions, most of which are out of my hands."

The VP of Athletics submitted a memorandum to the VP of Human Resources dated November 24, 2015, requesting a Term Position for the individual. The memorandum lists the primary duties for this individual are to assist in the transition of their duties and responsibilities to other staff, continue involvement in UNM's petition for a Professional Tennis Management graduate program, assist with securing and scheduling certain events, work with other UNM employees to transition and develop relationships with major university donors and assist with other special projects as assigned. The individual's formal offer of employment was dated January 25, 2016 with a start date of January 24, 2016 and an end date of January 23, 2018.

The plan then appears to have changed. The employee submitted his resignation with a last day of employment of January 23, 2016, with a request to reduce his full-time equivalency from 1.0 to 0.5 beginning December 1, 2015. The employee accepted a full-time position as the General Manager of the United States Tennis Association (USTA) effective January 4, 2016 and relocated to Florida for that position. However, he remains a part-time employee of UNM with a position through January 23, 2018, and his job duties for UNM include working with the USTA to develop and implement a Professional Tennis Management Program at the University. In other words, it appears that he continued to serve as a UNM employee to be able to earn ERB service credits, while also working full-time for an outside organization engaged on overlapping job duties.

In consideration of this transaction we also evaluated compliance with UNM's conflicts of interest policy.

We noted that the employee in question appears to have a conflict of interest that was not evaluated and disclosed per UNM policy. A part-time UNM employee is also a full-time employee of another organization working on overlapping issues.

Criteria

UNM Administrative Procedure 3720.1: Employee Code of Conduct and Conflicts of Interest, which covers all University employees, states:

Employees are expected to perform their duties faithfully and efficiently and never to give rise to suspicion of improper conflict with interest of the University. Subject to specific University administrative policies, employees *must avoid any conflict of interest that may affect their independent judgment in the impartial performance of their duties* and may not use their positions to enhance their direct or indirect financial interest or use confidential information learned as employees for anyone's private gain. University employees as well as individuals and firms proposing business transactions with the University shall disclose in advance and in writing any direct or indirect financial interest employees may have in a transaction with the University. (Emphasis added.)

UNM Administrative Procedure 3720.3 also requires employees to disclose business transactions with the University in advance and in writing where a University employee is also an employee of the business entity.

Section four of the above policy describes an arm's length transactions as one in which "the employee with a financial interest must not be in a position to exert influence over the transaction because of his or her employment with the University. Moreover, the employee must not have participated directly nor indirectly in the University's decision with respect to the transaction (such as by influencing the decision to enter into the transaction, helping to prepare the specifications, or having input or influence in deciding to whom the contract is awarded.)" The policy goes on to say "As a matter of policy, transactions will not be considered "arm's length" where a University employee has a financial interest in the proposed transaction and that employee reports to the same dean or director as the University unit proposing the transaction." Transactions not qualifying as arm's length transactions are not permissible unless approved by the University President in limited circumstances and under specific conditions, as outlined in the policy.

Cause

In order to facilitate an employee's desire to work elsewhere but also continue to earn ERB service credits, UNM entered into an employment agreement with an employee who was also a full-time employee of an organization assisting with the development of a new Masters degree program at the

University, without assessing the conflicts of interest that the arrangement presented and disclosing to appropriate UNM personnel.

Effect

Failure to properly evaluate the conflict of interest and disclose the conflict to someone independent of the business relationship caused non-compliance with UNM's employee conflict of interest policy.

Recommendation

UNM should review the circumstances related to the employee and evaluate potential conflicts of interest. UNM should ensure that documentation related to compliance with the Employee Code of Conduct and Conflicts of Interest policy is maintained. Structural improvements could include an office of ombudsman for ethics and compliance, as well as broader responsibility and duties for the Internal Audit department.

Response

The University does not have a professional services contract with the United States Tennis Association (USTA) nor a professional services contract with this employee which would create a conflict of interest in violation of the University Policy. However, the University will implement the following steps to avoid any future appearance of conflict of interest:

- The Athletics Department Human Resources Office will be required to prepare written documentation of compliance with the University policies and procedures related the Employee Code of Conduct and Conflicts of Interest policy. This documentation will demonstrate that the hire and/or transfer of the employee is indeed an arm's length transaction.
- Such documentation will be provided to the UNM Division of Human Resources and University Counsel Office for review to determine compliance with University policies.
- Going forward, the University President will work with the Athletics Director on changing reporting structures for the Athletics Department Human Resources Office to coordinate and report to the UNM Division of Human Resources.

With regards to the specific issue, the employee referenced in the special audit report is working as a .36 percent Full Time Equivalent (FTE). As required by the New Mexico Education Retirement Board (ERB) and University policies, this employee is required to participate in the Educational Retirement System. UNM completed the NMERB Independent Contractor Determination Application and NMERB determined that this employment relationship was not an independent contractor.

The employee has significant experience in UNM Athletics, has significant experience with a number of key initiatives involving the Athletics Department, and has long-standing relationships with UNM donors and other community members. He converted from a full-time position to a part-time exempt

position to ensure projects that he was actively involved in would be finalized with minimum disruption. He was asked to work on a part-time status to assist with the transition of his responsibilities to another staff member; the continuation and development of the Professional Tennis Master's Program for UNM; and to work with certain UNM major donors. This exempt part-time employee has consistently submitted monthly logs to his department to demonstrate his work effort relative to his FTE status.

The employee recently provided a high-level overview of his major accomplishments since transferring into his new part-time position:

- The employee provided monthly logs for cultivation and fundraising contacts.
- In addition to consistent communication with UNM supporters, he was integral in raising approximately \$500k over the last 21 months. These gifts were made up of several small gifts to UNM Tennis, one court naming gift at the McKinnon Tennis Stadium for \$50k, and the 2-year renewal of another gift of approximately \$425k.

The employee's work on the Professional Tennis Sports Management Degree is estimated to be 90% complete with expected program implementation by the College of Education in August 2018.

Finding 2017-010 Segregation of Duties

Condition

During our testwork, OSA noted that head coaches are responsible for raising funds for their respective teams. Head coaches solicit and deliver cash, check or credit card information from the fundraising efforts to the Lobo Club. This process lacks segregation of duties as coaches are responsible for both initiating and receiving transactions, which results in a lack of checks and balances.

Criteria

Good accounting practices require UNM to implement and follow sound accounting and internal control policies and procedures including segregation of duties over significant transaction cycles. Effective internal controls assist in demonstrating UNM's ability to record, process, summarize and report transactions and support financial statement assertions of completeness. The COSO Internal Control – Integrated Framework outlines the components, principles, and factors necessary for an organization to effectively manage its risks through the implementation of internal control. Clear responsibilities must be defined so that each group understands their role in addressing risk and control, the aspects for which they are accountable and how they will coordinate their efforts with each other. Insufficient control activities increase the risk of misappropriation of assets.

Cause

Lack of formal process that segregates duties of initiating and receiving transactions.

Effect

Lack of segregation of duties or other compensating internal controls may cause misappropriation of assets.

Recommendation

UNM should develop a formal written policy for soliciting donations for sports teams. The policy should include segregation of duties for solicitation and collection of donations. We recommend segregating the duties of collecting pledge sheets and collecting funds. On a broader level, the University needs to improve its governance structure for donations and related expenditures to enable transparency and accountability by both the University and its component units. Structural improvements could include an office of ombudsman for ethics and compliance, broader responsibility and duties for the Internal Audit department, a dedicated University-wide CFO position, clearer guidance on fiduciary duties and expectations for individuals who play multiple roles at UNM and its related entities, and a treasurer for the Lobo Club.

Response

The University agrees with the finding and recommendation for Lobo Club to develop formal written procedures for soliciting donations (through the Sport Enhancement Fund) for sports teams and other fundraising activities. The University has detailed policies involving gifts and fundraising - UAP 1030-Gifts to the University and UAP 1040-Fundraising. The UNM Foundation oversees and coordinates the University's charitable giving activities. Any charitable gift received by the Athletics Department, including gifts received by coaches, must be reported and deposited with the UNM Foundation or Lobo Club, in order to issue the type of receipt required by the Internal Revenue Service.

IV. SCOPE AND PROCEDURES

UNM engaged the Office of the State Auditor to perform certain procedures to assess UNM's compliance with applicable laws, regulations, policies and procedures in various areas. The following procedures were performed:

1. The Office of the State Auditor examined documentation, including relevant policies and procedures, related to specific selectively sampled transactions between July 1, 2014 and June, 2017.
2. The Office of the State Auditor performed additional procedures, as deemed necessary, related to the sampled transactions.

OSA created a scope of work that focused on various citizen concerns. As part of the scope of work, OSA staff performed procedures related to the topics listed below:

- Payments made on behalf of Athletics by the UNM Lobo Club, UNM Foundation and UNM Alumni Association
- Compensation related to key Athletics individuals
- Key Athletics individuals out-of-state travel
- Disbursements made directly to key Athletics individuals
- Cash advances utilized on P-cards
- Benefits received by Donors
- Pit Suite sales and collections
- Championship tickets
- Booster clubs/Sports Enhancement Funds
- Ski team

The OSA developed this report based on information from interviews, observations, and our review of selected documentation and records. Based on the samples tested and the limited procedures performed, the OSA was not able to determine if the findings and issues of non-compliance were the result of intentional wrongdoing. However, had additional procedures been performed, other matters may have become known that would have been reported.

V. ABOUT THE OFFICE OF THE STATE AUDITOR

The New Mexico Office of the State Auditor is a constitutionally established, separately elected office in the executive branch of state government. The State Auditor maintains independence from both the Governor and the Legislature while examining and auditing the financial affairs of state and local entities. When the State's leaders prepared the New Mexico Constitution in 1911 for impending statehood the following year, they created a strong, independent Office of the State Auditor to oversee how government officials spend taxpayers' hard-earned dollars. As the New Mexico Supreme Court stated in 1968, "the office of state auditor was created and exists for the basic purpose of having a completely independent representative of the people, accountable to no one else, with the power, duty and authority to examine and pass upon the activities of state officers and agencies who, by law, receive and expend public moneys." *Thompson v. Legislative Audit Comm'n*, 79 NM. 693, 448 P.2d 779 (1968).

Included in the OSA's statutory mandate is the requirement that the financial affairs of every agency be thoroughly examined and audited each year by the State Auditor, personnel of the State Auditor's Office designated by the State Auditor, or Independent Public Accountants approved by the State Auditor. The OSA also has the authority to cause the financial affairs and transactions of an agency to be audited in whole or in part. These two statutory provisions grant the State Auditor the authority to conduct both annual financial audits and special audits. The Audit Act, New Mexico Statutes Annotated 1978, Sections 12-6-1 to 12-6-14, and the Audit Rule, NMAC 2.2.2, are the laws and regulations under which the OSA operates. The Audit Rule, NMAC 2.2.2.15.B, encompasses special audits, attestation engagements, performance audit and forensic audit, which include, without limitation, agreed-upon procedures, consulting, and contract close-out (results-based award) engagements that address financial fraud, waste or abuse in government.

EXIT CONFERENCE

On October 31, 2017 the OSA held an exit conference with the following individuals to discuss the results of the consulting service engagement and the findings.

University of New Mexico

Dr. Chaouki Abdallah, UNM Interim President
Alex Romero, UNM Board of Regents

Office of the State Auditor

Timothy M. Keller, State Auditor
Sanjay Bhakta, CPA, CGFM, CFE, CGMA, Deputy State Auditor
Sunalei Stewart, JD, CFE, Chief of Staff
Sarita Nair, JD, MCRP, Chief Government Accountability Officer & General Counsel
Lynette Kennard, CPA, CGFM, Financial Audit Division Director
Shannon Sanders, CPA, CFE, Audit Manager

Timothy M. Keller
State Auditor



Sanjay Bhakta, CPA, CGFM, CFE, CGMA
Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

November 10, 2017

Chaouki T. Abdallah
Interim President
University of New Mexico
MSC05 3300
1 University of New Mexico
Albuquerque, NM 87131

Dear President Abdallah:

We have performed consulting services on accounting and financial records related to the University of New Mexico ("UNM", "University") and its component units for the period of July 1, 2014, through June 30, 2017. This engagement is solely to assist UNM in addressing various concerns regarding the Athletics Department.

On behalf of UNM, the Interim President agreed to the services. UNM's management is responsible for its accounting and financial records. This consulting services engagement was conducted in accordance with Standards for Consulting Services established by the American Institute of Certified Public Accountants.

UNM management is responsible for maintaining the accounting records and for establishing and maintaining effective internal control over compliance with applicable laws, regulations, and procurement policies of the University. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. In addition, our consulting procedures do not provide an ultimate legal determination of UNM's compliance with applicable laws and regulations.

This report is intended solely for the information and use of management of the University of New Mexico and the New Mexico State Auditor, and is not intended to be and should not be used by anyone other than these specified parties. Please do not hesitate to contact us at (505) 476-3800 if you have any questions regarding this report.

Sincerely,

A handwritten signature in blue ink that reads "Office of the State Auditor".

Office of the State Auditor

2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507
Phone (505) 476-3800 * Fax (505) 827-3512
www.osanm.org * 1-866-OSA-FRAUD

Appendix 1: Key Athletics Department Employees and Compensation

Employee	Base Salary	Contracted Benefits	Other fringe benefits (taxable)	Total
Robert Davie	\$ 422,690	\$ 764,100	\$ 21,466	\$ 1,208,256
Craig Neal	\$ 300,000	\$ 864,100	\$ 4,805	\$ 1,168,905
Paul Weir	\$ 300,000	\$ 556,100	\$ -	\$ 856,100
Paul Krebs	\$ 319,262	\$ 291,300	\$ 2,455	\$ 613,017
J. Ray Birmingham	\$ 155,572	\$ 58,104	\$ 23,425	\$ 237,101
Tim Cass	\$ 210,000	\$ 14,100	\$ 70	\$ 224,170
Janice Ruggiero	\$ 165,000	\$ 18,720	\$ 3,299	\$ 187,019
Brad Hutchins	\$ 140,000	\$ 11,904	\$ 736	\$ 152,640
Kole McKamey*	\$ 110,000	\$ -	\$ -	\$ 110,000
Ed Manzanares	\$ 83,200	\$ 11,904	\$ 477	\$ 95,581
Scott Dotson	\$ 91,865	\$ -	\$ 3,367	\$ 95,232
Brian DeSpain	\$ 83,000	\$ -	\$ 9,559	\$ 92,559
Kaley Espindola	\$ 79,650	\$ -	\$ -	\$ 79,650
Yvonne Otts	\$ 76,875	\$ -	\$ 1,337	\$ 78,212
Cody Hopkins	\$ 76,500	\$ -	\$ -	\$ 76,500
Ryan Berryman	\$ 65,000	\$ -	\$ -	\$ 65,000
Frank Mercogliano	\$ 61,450	\$ -	\$ 868	\$ 62,318
Vera Jo Bustos	\$ 55,037	\$ -	\$ 1,340	\$ 56,377
Valerie Arbogast	\$ 50,003	\$ -	\$ 1,113	\$ 51,116
Evan Barker	\$ 35,000	\$ -	\$ 1,550	\$ 36,550

*Employee of the Foundation, works with Lobo Club, housed in Athletics Department

Note: Base salary and contracted benefits are from 2017 when applicable, otherwise it is the latest year the person was employed.

Procedure: Base pay and contracted benefits are determined from the contracts (when applicable) or payroll information. The contracted benefits amount includes all possible incentive payments, regardless of whether they were actually earned or paid. Other fringe benefits could come from the contract/employment agreement as well as from our testwork on Reimbursements and P-Card transactions, or from payroll reports.

Appendix 2: Budget Allocation of Student Activity Fees Fiscal Year 2017

<u>Student Activity Fees:</u>	<u>Amount</u>	<u>Percentage</u>
Student Health and Counseling	4,542,737	13.11%
Athletics	3,968,694	11.45%
New Mexico Union (SUB)	2,340,498	6.75%
Information Technology Initiatives	1,885,130	5.44%
Recreational Services	831,148	2.40%
University Library Acquisitions	793,739	2.29%
UNM Children's Campus	375,800	1.08%
Center of Academic Support	330,359	0.95%
UNM Public Events (Popejoy)	178,591	0.52%
Student Government Accounting Office	178,401	0.51%
El Centro De La Raza	173,004	0.50%
LGBTQ Resource Center	130,728	0.38%
Community Learning & Public Service	111,123	0.32%
Women's Center	106,163	0.31%
American Indian Student Services	95,001	0.27%
African American Student Services	91,050	0.26%
Graduate Resource Center	89,296	0.26%
Music Bands	72,429	0.21%
KUNM	61,735	0.18%
Project for NM Graduates of Color	49,767	0.14%
Global Education Office	48,732	0.14%
College Assistant Migrant Program	34,726	0.10%
Career Services	32,601	0.09%
Theatre and Dance	31,403	0.09%
Student Activity Center	30,876	0.09%
College Enrichment Program	24,804	0.07%
Center on Alcoholism, Substance Abuse and Addictions	19,083	0.06%
Medicine Bow - HSC Campus	9,571	0.03%
Subtotal - Student Activity Fees	<u>16,637,189</u>	<u>48.01%</u>
<u>Associated Students of UNM:</u>		
Associated Students of UNM	843,347	2.43%
Associated Students of UNM - Accounting office	39,848	0.11%
Subtotal - Associated Students of UNM	<u>883,195</u>	<u>2.55%</u>
<u>Debt Service:</u>		
Debt Service - Facility Fee	14,574,350	42.06%
Debt Service - ERP Project Fee	2,333,770	6.73%
Subtotal - Debt Service	<u>16,908,120</u>	<u>48.79%</u>

Student Activity Fees:	Amount	Percentage
Total - MC/HSC Current Funds	33,545,309	96.80%
Student Fee Review Board (SFRB) - One Time Funding		
Libraries	75,000	0.22%
Parking & Transportation Services	50,000	0.14%
Center of Academic Support	37,500	0.11%
Information Technologies	20,000	0.06%
Community Learning & Public Service	19,201	0.06%
Medicine Bow - HSC Campus	17,000	0.05%
LGBT Resource Center	7,500	0.02%
Total SFRB - One Time Funding	226,201	0.65%
Total Main Campus	34,654,705	100.00%

Note: Nearly half of Student Activity Fee revenue goes toward debt service. While permissible, this is not what the name “Student Activity Fee” connotes.

Appendix 3: Summary of Flow of Funds Between Entities

From	To	Purpose	Amount		
			Fiscal Year 2017	Fiscal Year 2016	Fiscal Year 2015
UNM	Foundation	Surcharge of 0.5% of operating budget from each department plus DFA	\$7,769,859	\$8,078,389	\$8,825,395
UNM	Each department, including Athletics	Operating Budget	Total: \$860,269,618 Athletics: \$37,360,167	Total: \$875,768,653 Athletics: \$35,972,688	Total: \$866,290,865 Athletics: \$34,702,380
UNM	Student activities, debt service and other	Student Activity Fees and Other Mandatory Fees	\$34,654,705*	\$32,548,910*	\$32,634,914*
Foundation	UNM	Contributions**	\$36,716,240	\$28,292,544	\$26,224,604
Foundation	Athletics (A), Lobo Club (L)	Endowment spending distribution designation	A: \$156,286 L: \$5,162	A: \$172,318 L: \$5,645	A: \$152,421 L: \$5,539
Foundation, Athletics	Lobo Club	Employee salaries	\$334,251	\$392,076	\$330,787
Athletics	Lobo Club	Free space and supplies	Approximately 1,600 square feet office space on UNM campus, supplies are not tracked	Approximately 1,600 square feet office space on UNM campus, supplies are not tracked	Approximately 1,600 square feet office space on UNM campus, supplies are not tracked
UNM	Alumni Association	Employee salaries	\$582,261	\$895,705	\$685,459
UNM	Alumni Association	Free space and supplies	Approximately 15,000 square feet office space on UNM campus, supplies are not tracked	Approximately 15,000 square feet office space on UNM campus, supplies are not tracked	Approximately 15,000 square feet office space on UNM campus, supplies are not tracked

From	To	Purpose	Amount		
			Fiscal Year 2017	Fiscal Year 2016	Fiscal Year 2015
Public	Foundation	Donations	\$35,933,599	\$30,171,913	\$28,506,911
Public	Lobo Club	Donations	\$4,654,614	\$5,965,333	\$5,850,675
Public	Alumni Association	Donations	\$5,839	\$7,661	\$24,362
Public	Booster Clubs	Donations	\$734,692	\$736,087	\$724,927
Booster Clubs	Athletics	Donations	\$734,692	\$736,087	\$724,927
Lobo Club	Athletics	Donations	\$2,600,000	\$2,900,000	\$3,051,000
Lobo Club	UNM for Pit Renovation	Pit Suite revenue	\$841,153	\$1,260,618	\$1,447,452

*Based on final budgeted amounts

** Figures do not include gift commitments, which are gifts that are not immediately transferred to UNM, such as endowment gifts, pledges, and estate commitments.

Appendix 4: UNM Athletics Expenses Paid by the Foundation, Alumni Association, and Lobo Club

The OSA tested all UNM Athletics expenditures paid by the Foundation during the fiscal years ended 2015, 2016 and 2017. The OSA identified several expenditures that, while allowable, were documented in such a way that they may raise concerns from the public about excessive spending, as follows:

- An Athletics employee and spouse went out to dinner with a UNM administrator and spouse, who are also donors. The dinner was classified as donor stewardship/cultivation. The dinner cost \$827.83 for four diners, and included alcohol in the amount of \$312.00.
- An Athletics employee turned in a mileage reimbursement request beyond the 60 day IRS guidelines, and this amount was not included as taxable income for the employee, totaling \$211.75.

As part of our scope, OSA tested 50 of the largest Athletics-related expenditures paid by the Alumni Association during the fiscal years ended 2015, 2016 and 2017. We noted the following:

- \$3,266 for four football tickets. The purchase does not describe the purpose or who was receiving the tickets. In addition, in the total sample, over \$30,000 of tickets to various UNM sporting events were purchased over the three year period, and we did not note a business purpose or list of attendees for these purchases.

As part of our scope, OSA tested travel expenditures over \$25, expense reimbursements of two employees and other P-Card and expense reimbursements over \$2,500 from the Lobo Club during the fiscal years ended 2015, 2016 and 2017. We noted the following:

- Six instances of events with expenditures in excess of \$100 per person:
 - Breakfast for 27 people totaling \$5,649.20 (average cost of \$209 per person).
 - Dinner for 15 people totaling \$2,522.21 (average cost of \$168 per person).
 - Dinner for 10 people totaling \$1,422.82 (average cost of \$142 per person).
 - Dinner for 17 people totaling \$1,995.55 (average cost of \$117 per person).
 - Dinner for 74 people totaling \$7,894.79, including \$1,878 in alcohol (average cost of \$107 per person).

Appendix 5: UNM Officers, Regents and Employees Relevant to this Report as of June 30, 2017

Board of Regents

Officers

Robert M. Doughty III	Board President
Marron Lee	Vice President

Appointed Members

Alex Romero	Regent
Dr. Thomas Clifford	Regent
Lieutenant General Bradley C. Hosmer, USAF (Ret.)	Regent
Suzanne Quillen	Regent
Garrett Adcock	Student Regent

Non-Voting, Ex-Officio Members

The Honorable Susana Martinez	Governor of the State of New Mexico
Dr. Barbara Damron	Secretary of Higher Education

Significant Employees with an Emphasis on Athletics

Dr. Chaouki Abdallah	Interim President
David W. Harris	Executive Vice President for Administration, CFO and COO
Paul Krebs	Vice President Athletics
Elizabeth Metzger	Controller

Appendix 6: Lobo Club Officers, Directors and Significant Employees as of June 30, 2017

Board of Directors

Officers

Chris Cates
Kyle Beasley
Patrick Dee
Bart Kinney
Neal Piltch
Wryan Capps
Dee Dennis
Susie Singer
Arvind Raichur

Board President
President Elect
Immediate Past President
Vice President
Vice President
Vice President
Vice President
Vice President
Vice President

Members

Dale Armstrong
Stu Aldredge
Lucy Barabe
Noel Behne
R. J. Berry
Wryan Capps
Cliff Gramer
Rocky Hughes
Larry Jehle
Paul Krebs
JJ Griego - *Membership Drive Appointment*
Norman Burns – *Sandoval County Chapter President*
Fred Montoya – *Pajarito Chapter President*
John Brooks - *Honorary Lifetime Member*
Yvonne Moise - *Honorary Lifetime Member*
Lynn Mosher - *Honorary Lifetime Member*

Mary Beth Maloy
Beverly McMillan
Kevin O’Hea
Lawrence Peterson
Rick Siegel
David Smoak
Adam Thornton
Vince Ward
Chris Youngblood

Significant Employees

Kole McKamey

Senior Associate Athletics Director for
Development, Executive
Director UNM Foundation
Financial Coordinator
Director of Annual Giving UNM
Foundation
Director of Development, Premium
Seating UNM Foundation

Valerie Arbogast
Jessica Philbrook

Sean Ferrara

Appendix 7: Foundation Officers, Trustees and Significant Employees as of June 30, 2017

Board of Trustees

Officers

Michelle Coons
Henry Nemcik
Laurie Moyer
Randy Velarde
Rodney Harder

Chair
UNM Foundation President and CEO
Vice Chair/Chair Elect
National Vice Chair
Treasurer

Trustees

Chaouki Abdallah
Carolyn Abeita
Carl Alongi
Gary Dushane
Greg Foltz
Geraldine Forbes-Isais
Cheryl Fossum-Graham
Gus Foster
Bill Lang
William Lang
Marron Lee
James Lewis
Lameck Lukanga

Ryan Mummert
Anthony Pachelli
Sherry Parsons
Kimberly Pena
Don Power
Dorothy Rainosek
Nancy Ridenour
Tommy Roberts
Kurt Roth
David Salazar
Linda Warning
Judy Zanotti

Significant Employees

Henry Nemcik
William Uher
Larry Ryan

Rodney Harder
Curtis Helsel
Wendy Stires

Raquel LeCesne

President and CEO
Vice President of Development
Vice President of University
Development
Chief Financial Officer and Treasurer
Chief Operations Officer
Associate Vice President of Principal
Giving and Regional Development
Director of Trustee Relations &
Development

Appendix 8: Alumni Association Officers, Directors and Significant Employees as of June 30, 2017

Board of Directors

Officers

James Lewis
Harold Lavender
Tom Daulton
Dana Allen

President
President-Elect
Treasurer
Alumni Relations Office Vice
President, Alumni Association
Executive Director, Secretary

Directors

Sandra K. Begay
Brenda Bova
John Brown
Bill Dolan
Robert Doughty
Mike Dunworth
Veronica Garcia
Julia Gilroy
Leslie Hoffman
James King
James Lewis
Ryan Lindquist
Kendra Merritt-Doyel
Danny Milo
Karen Moses

Judy K. Nakamura
Roselyn Nguyen
Tim Nisly
Mary O'Hara
Michael Padilla
Olivia Padilla-Jackson
Lorii Rabinowitz
Ann Rhoades
Henry Rivera
Terri Salazar
Peter Sanchez
Alexis Tappan
Daniel Trujillo
Apollonia Trujillo Gallegos
Jake Wellman
Cate Wisdom

Significant Employee

Dana Allen

Alumni Relations Office Vice
President, Alumni Association
Executive Director, Secretary

Appendix 9: Overviews of Memoranda of Agreement between UNM and Related Entities

Lobo Club has a Memorandum of Agreement (MOA) in place with the Regents of UNM and the Foundation, which includes the following:

- Lobo Club is to provide solicitation, consultation and other related services in efforts to maximize private gifts and donations for the benefit of UNM athletics programs. All funds contributed for UNM athletics programs are to be used for the benefit of athletics programs and administered in accordance with UNM's Administrative Policies and Procedures Manual.
- Lobo Club is to deposit all funds received that are not retained for operating expenses in agency accounts established by UNM for the Lobo Club. UNM Athletics is responsible for oversight of the funds.
- Lobo Club staff members will be employees of UNM or the Foundation. UNM and the Foundation mutually agree to pay for the appropriate staff support required by the Lobo Club to fulfill its role and responsibilities.
- UNM is to provide suitable office and meeting space and pay for utilities, maintenance and repairs, property insurance, and other physical facility support at no cost to the Lobo Club.
- UNM agrees to provide the Lobo Club with certain services without charge, including, but not necessarily limited to business, financial, legal, public relations, and consulting services.
- UNM agrees to provide the necessary computing support, including acquisition of appropriate hardware and software (with the exception of the donor database software) required by the Lobo Club to record and maintain the required membership and donor records.
- All funds or property transferred to UNM by the Lobo Club will be subject to all state laws and regulations governing the disbursement and administration of public funds and public property, except to the extent of any specific conditions acceptable to UNM.
- The Foundation, in coordination with UNM, takes primary responsibility for raising funds to support the general needs of UNM. Such fundraising efforts may benefit the Lobo Club.
- Endowed gifts to benefit UNM athletics programs are to be referred to the Foundation. The Foundation has been charged by the University with the ownership, management, investment and distribution of all endowments for the benefit of the University as part of the Consolidated Investment Fund.

The Foundation has a Memorandum of Agreement (MOA) in place with the Regents of UNM. MOA highlights are listed below.

- The President of the Foundation shall report primarily to the President of the University and then to the Executive Committee of the Foundation.
- The UNM Board of Regents designated an Investment Committee as the investment advisory committee required by state statute. UNM delegates to the Foundation, acting through its Investment Committee, the authority to manage the investments of both the UNM funds and Foundation funds placed in the Consolidated Investment Fund. The UNM President and UNM Chief Financial Officer (or CFO designee) are members of the Investment Committee. In addition, the Foundation Board Chair appoints at least seven Foundation Trustees and the Foundation's Executive Committee can recommend up to five additional at large members for the Foundation Board to approve.
- The expenditure of gift funds for the benefit of any unit of UNM or UNM-affiliated organization will be disbursed through UNM's general ledger system.
- All funds that are transferred from the Foundation to a UNM spending account are subject to all state laws and regulations governing the disbursement and administration of public funds.
- UNM assumes responsibility for monitoring expenditures and income disbursements from both non-endowed gift accounts and endowed spending accounts to ensure that any and all donor-imposed restrictions are maintained.

The Alumni Association has a Memorandum of Understanding (MOU) in place with the Regents of UNM, MOU highlights are listed below.

- The Alumni Association is to collaborate with the Foundation to assist UNM in maximizing support, including financial support, for UNM by its alumni, sponsoring programs for alumni engagement, organizing alumni chapters, keeping alumni informed about UNM, marketing UNM, maintaining a corporate alumni program and otherwise promoting alumni interest and engagement at UNM. The Alumni Association activities are to be conducted for the benefit of UNM alumni in accordance with UNM's programs and policies.
- Gifts and/or donations of cash or real or personal property given to the Alumni Association shall be reported to the Foundation in accordance with applicable University policy, and shall be deposited in and managed as part of the Foundation's Consolidated Investment Fund, unless otherwise directed by the donor.
- UNM shall provide and pay for staff to support the Alumni Association's role, obligations, and responsibilities through the University's Alumni Relations Office.
- UNM shall provide at no cost to the Alumni Association the use of Hodgin Hall Alumni Center offices, including maintenance and repairs, property insurance, and other physical facility support, subject to availability of University funds.

- UNM agrees to provide the Alumni Association with certain services, including, but not necessarily limited to business, financial, legal, public relations, and consulting services at its discretion, including remittance of negotiated fees for services provided.
- UNM may provide financial support to the Alumni Association for its stewardship and University support efforts to the extent that such support is not inconsistent with the Alumni Associations' status as an independent, separate legal entity.
- Expenditures of Alumni Association funds to any UNM employee or for the benefit of any UNM unit will be disbursed through UNM's general ledger system.
- The Alumni Association shall establish policies and procedures based on best practices to ensure that the uses of its resources are consistent with UNM policies.
- Any funds or property transferred to UNM and the UNM Foundation's Consolidated Investment Fund by the Alumni Association will be subject to all state laws and regulations governing the disbursement and administration of public property, except to the extent of any specific conditions of the transfer that are acceptable to UNM and do not require actions that are prohibited under state law.
- Investment accounts or funds held or managed by the Foundation will be subject to reasonable management fees to be paid by the Alumni Association.
- The Board of Regents' approves the Board of Directors of the Alumni Association.