

UNIVERSITY OF CENTRAL FLORIDA

Operational Audit

For the Fiscal Year Ended
June 30, 2009



BOARD OF TRUSTEES AND PRESIDENT

Members of the Board of Trustees and President who served during the 2008-09 fiscal year are listed below:

Richard Walsh, Chair
Thomas Yochum, Vice Chair
Judith Albertson
Logan Berkowitz to 5-07-09 (1)
Olga Calvet
Dr. Manoj Chopra to 4-22-09 (2)
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Dr. Ida J. Cook from 4-23-09 (2)
Alan S. Florez
Michael Grindstaff
Phyllis Klock
Brian Peterson from 5-08-09 (1)
Harris Rosen
Conrad Santiago
Al Weiss

Dr. John C. Hitt, President

Notes: (1) Student body president.
(2) Faculty senate chair.

The audit team leader was Jeffrey L. Cardinali, CPA, and the audit was supervised by Brenda C. Racis, CPA. Please address inquiries regarding this report to James R Stultz, CPA, Audit Manager, by e-mail at jimstultz@aud.state.fl.us or by telephone at (850) 922-2263.

This report and other reports prepared by the Auditor General can be obtained on our Web site at www.myflorida.com/audgen; by telephone at (850) 487-9024; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

UNIVERSITY OF CENTRAL FLORIDA

SUMMARY

Our operational audit for the fiscal year ended June 30, 2009, disclosed the following:

Finding No. 1: The University assessed an administrative service charge for certain international students without specific statutory authority to do so.

Finding No. 2: The University's office supply store, Office Plus, extended credit to nongovernmental entities, contrary to Article VII, Section 10, of the Florida Constitution.

Finding No. 3: The University had previously made \$9.4 million of loans to the UCF Athletics Association, Inc., a University direct-support organization, without specific legal authority to do so. As of June 30, 2009, the Association had not returned the \$9.4 million to the University, although the University has set up a repayment schedule for these loans.

Finding No. 4: The University had previously transferred \$2 million of State matching funds received under the 21st Century World Class Scholars Program to the University of Central Florida Foundation, Inc. (Foundation), without specific legal authority to do so. As of June 30, 2009, these funds had not been returned to the University.

Finding No. 5: The University, in some instances, collected the social security number (SSN) of individuals without providing the individuals a written statement of the purpose for collecting the SSN, contrary to Section 119.071(5)(a), Florida Statutes.

BACKGROUND

The University of Central Florida (University) is part of the State university system of public universities, which is under the general direction and control of the Florida Board of Governors. The University is directly governed by a Board of Trustees (Trustees) consisting of 13 members. The Governor appoints 6 citizen members and the Board of Governors appoints 5 citizen members. These members are confirmed by the Florida Senate and serve staggered terms of five years. The faculty senate chair and student body president also are members.

The Board of Governors establishes the powers and duties of the Trustees. The Trustees are responsible for setting University policies, which provide governance in accordance with State law and Board of Governors' Regulations. The Trustees select the University President. The University President serves as the executive officer and the corporate secretary of the Trustees and is responsible for administering the policies prescribed by the Trustees for the University.

The results of our financial audit of the University for the fiscal year ended June 30, 2009, will be presented in a separate report. In addition, the Federal awards administered by the University are included within the scope of our Statewide audit of Federal awards administered by the State of Florida and the results of that audit, for the fiscal year ended June 30, 2009, will be presented in a separate report.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: International Students Service Charge

On September 23, 2004, the University Board of Trustees approved the establishment of a service charge to be paid by certain international students. Effective for the Fall 2005 term, the University began assessing F-Visa or J-Visa

degree seeking international students with a \$50 per semester service charge to cover University administrative costs incurred in connection with reporting certain information to the Student and Exchange Visitor Information System (SEVIS), a Federal web-based system for maintaining information on international students and exchange visitors in the United States. SEVIS is administered by the Student and Exchange Visitor Program, United States Immigration and Customs Enforcement, Department of Homeland Security. The reporting of this information is required by Title 8, Section 1372, United States Code. Since inception of this service charge through June 30, 2009, the University had collected \$422,850 of the service charges.

The University may only assess fees and charges as specifically authorized by law, and there exists no specific legal authority authorizing the University to assess the above-noted administrative charge. In response to a similar finding in our report No. 2008-104, the University President indicated that the service charge was assessed pursuant to Section 1009.24, Florida Statutes, and subsequently authorized by the Board of Governors¹ and, therefore, is authorized pursuant to Article IX, Section 7 of the Florida Constitution. However, neither Section 1009.24, Florida Statutes, nor Article IX, Section 7 of the Florida Constitution, specifically provide for this service charge. The Board of Governors' authority to approve such a charge, or any other fee or service charge not specifically authorized by Florida Statutes, is the subject of litigation in the Second Judicial Circuit (Bob Graham, et. al. v. Ken Pruitt and Marco Rubio, 37 2007CA-01818).

Recommendation: The University should ensure that students are only assessed fees and charges that are clearly authorized by Florida Statutes.

Follow-up to Management Response

The President, in response to this finding, indicated that the service charge was assessed pursuant to Board of Governors Regulation 7.003(23), and the Board of Governors has the power of law in any area within the broad grant of powers given to it in the Florida Constitution and specific implementing legislation is not necessary. As indicated in our finding, the Board of Governors' authority to approve such a charge, or any other fee or service charge not specifically authorized by Florida Statutes, is the subject of litigation.

Finding No. 2: Office Supply Store Collections

The University's office supply store, Office Plus, was established as an auxiliary operation to provide office supplies primarily to University departments and students. Office Plus utilizes a private office supply vendor as its primary supplier. The Office Plus Web site includes a link to the vendor's on-line catalog and a request form for access to use the online catalog. Office Plus then provides its customer with an ID and password. When orders are placed via the online catalog, the goods are delivered to the requesting department and Office Plus is billed by the vendor. Office Plus makes payment to the vendor then bills the requesting department. Sales during the 2008-09 fiscal year totaled approximately \$1.9 million.

Our review of Office Plus collections disclosed that four nongovernmental entities that conducted business with the University had placed orders with the vendor via the Office Plus Web site. Office Plus paid the vendor, then billed these entities. We obtained a receivables report from University personnel as of May 20, 2009, that listed credit sales of approximately \$19,000 to nongovernmental entities during the 2008-09 fiscal year. Of this amount, approximately \$2,750 remained outstanding, some as much as 69 days old, on May 20, 2009. The extension of credit to

¹ Board of Governors Regulation 7.003(23) authorizes universities to assess an international student services fee to cover the costs associated with reporting requirements of the SEVIS administered by the United States Department of Homeland Security for F-Visa and J-Visa degree seeking students.

nongovernmental entities is contrary to Article VII, Section 10 of the Florida Constitution, which prohibits governmental entities (including universities) from extending credit to any corporation, association, partnership, or person.

In response to a similar finding in our report No. 2008-104, the University President indicated that billing nongovernment entities for supplies purchased is similar to billing students for tuition and fees. Section 1009.27, Florida Statutes, authorizes the University to defer student tuition and fees, and provides for measures to be taken if the University is unable to collect the deferred fees; however, no such statutory authority exists regarding extension of credit to nongovernmental entities. Further, the University's extension of credit to nongovernmental entities for supplies purchased from its office supply store would result in a loss of University funds if the credit sales to a nongovernment entity resulted in a default. Therefore, such installment sales are inappropriate and contrary to Article VII, Section 10 of the Florida Constitution.

Recommendation: The University should discontinue the practice of extending credit to nongovernmental entities purchasing supplies from the Office Plus store.

Follow-up to Management Response

The President, in response to this finding, indicated that Article VII, Section 10 of the Florida Constitution does not prohibit extension of credit. However, the legal bases cited by the President in support of this assertion are not relevant to the circumstances in our finding. Rather, the cited authorities involve the sale of real property on an installment basis with a first mortgage being retained and impact fees or taxes being collected on an installment basis. As noted in AGO 82-58, cited by the President, such credit sales are appropriate only if "no additional obligation is placed upon the city and there is no assumption by the city, either directly or indirectly, to pay a debt of a third party nor any public property is placed in jeopardy by the default of such party." See also AGO 90-41. As also indicated by the President, in his response, the word "credit" as used in Article VII, Section 10 of the Florida Constitution, implies the imposition of debt upon the state or political subdivision for the benefit of a private enterprise. We believe that is exactly what has occurred as a result of the University's extension of credit to the nongovernmental entities for supplies purchased from its office supply store by virtue of the fact that such credit would result in a loss of University funds if the credit sales to the nongovernment entities resulted in a default.

Finding No. 3: Loans to a Direct-Support Organization

In our report No. 2008-104, we noted that the University had provided loans to the UCF Athletics Association, Inc. (Association), a University direct-support organization organized to promote intercollegiate athletics to benefit the University and surrounding communities. Funds loaned were from University auxiliary overhead accounts and had been provided to the Association to fund shortfalls in operating costs. From June 1, 2004, through July 2, 2007, ten loans, totaling \$9,473,000, had been issued with interest accruals as of June 30, 2009, totaling \$1,275,142. Absent specific statutory authority, the University is prohibited from making loans to the Association. In response to the finding in our report No. 2008-104, the University President indicated that the University had ceased to initiate new loans.

Our audit disclosed that no such loans were made to the Association during the 2008-09 fiscal year. However, as of June 30, 2009, the Association had not returned the \$9,473,000 to the University, although the University had established a repayment schedule for the Association to begin payments of principal and interest on June 30, 2010, with subsequent annual payments through June 30, 2024.

Recommendation: The University should continue their efforts to ensure that these funds are returned to the University's accounts.

Finding No. 4: 21st Century World Class Scholars Program

Section 1004.226(5), Florida Statutes, established the 21st Century World Class Scholars Program, whereby the State may provide matching funds to universities to assist in the recruitment of scholars to help develop the State's capabilities in science and high-technology research. To be eligible for the matching funds, a university must raise a minimum of \$1 million. Upon verification by the Board of Governors (BOG) that a university has met the criteria, the BOG releases matching funds to the university to be expended according to a BOG-approved expenditure plan.

During the 2006-07 fiscal year, the University received two separate allocations of \$1 million under this program for a total of \$2 million in State matching funds. As reported in audit report No. 2008-104, upon the receipt and deposit into University accounts, the University transferred these matching funds to the University of Central Florida Foundation, Inc. (Foundation), a University direct-support organization organized pursuant to Section 1004.28, Florida Statutes, to provide charitable and educational aid to the University. In accordance with the respective BOG-approved expenditure plans, the State matching funds transferred to the Foundation were placed into endowments and interest earnings were to provide recurring support for the scholars being recruited by the University. However, Section 1004.226(5), Florida Statutes, does not specifically authorize the University to transfer State matching funds received under this program to another entity, nor are we aware of any law providing the University specific legal authority to transfer such funds to a direct-support organization. As of June 30, 2009, these funds had not been returned to the University.

In response to the finding in our report No. 2008-104, the University President indicated that the funds were transferred to the Foundation based on a proposal submitted to (and approved by) the BOG and on the Foundation's status as an agent for the administration and oversight of all endowments. Regardless of the BOG's approval and the Foundation's role, we are unaware of any specific statutory authority that would permit the University to transfer these funds to the Foundation.

Recommendation: The University should seek to return the \$2 million in State matching funds to the University's accounts.

Follow-up to Management Response

The President, in response to this finding, indicated that Section 1004.28, Florida Statutes, authorizes direct support organizations such as the Foundation to collect and administer gifts and grants for the benefit of the University and cites language in the law maintaining anonymity for donors as supporting the University's transfer of funds to the Foundation. However, this exemption from the public records law is for gifts made to the Foundation and does not provide authority for the University to transfer funds to the Foundation.

Finding No. 5: Collection of Social Security Numbers

The Legislature has acknowledged in Section 119.071(5)(a), Florida Statutes, the necessity of collecting social security numbers (SSNs) for certain purposes because of their acceptance over time as a unique numeric identifier for identity verification and other legitimate purposes. The Legislature has also recognized that SSNs can be used to acquire sensitive personal information, the release of which could result in fraud against individuals or cause other financial or

personal harm. Therefore, public entities are required to provide extra care in maintaining such information to ensure its confidential status.

Section 119.071(5)(a), Florida Statutes, provides that an agency may not collect an individual's SSN unless the agency has stated in writing the purpose for its collection and unless it is specifically authorized by law to do so, or it is imperative for the performance of that agency's duties and responsibilities as prescribed by law. Additionally, this Section requires that an agency collecting an individual's SSN provide that individual with a copy of the written statement indicating the purpose for collecting the number, and that SSNs collected by an agency will not be used for any purpose other than the purpose provided in the written statement. This Section also requires that each agency review whether its collection of SSNs is in compliance with the above requirement and immediately discontinue the collection of SSNs for purposes that are not in compliance.

Although the University had unique student and employee identification numbers to replace using SSNs for record keeping purposes, it continued to obtain SSNs from employees, prospective employees, students, and certain vendors. Our audit disclosed that the University, contrary to Section 119.071(5)(a), Florida Statutes, was not providing employees and prospective employees with a written statement of the specific purpose for collecting their SSNs for certain forms, such as loyalty oaths, personal data sheets, and confidentiality agreements. Subsequent to our inquiry, on June 5, 2009, the University amended these forms to eliminate the requirement for a SSN. Effective controls to properly monitor the need for and use of SSNs and ensure compliance with statutory requirements reduce the risk that SSNs may be used for unauthorized purposes.

Recommendation: The University should continue its efforts to ensure that the required written statements are provided to individuals when social security numbers are collected as required by Section 119.071(5)(a), Florida Statutes.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the University had taken corrective actions for findings included in our report No. 2008-104.

OBJECTIVES, SCOPE, AND METHODOLOGY

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

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

The objectives of this operational audit were to: (1) obtain an understanding and make overall judgments as to whether University internal controls promoted and encouraged compliance with applicable laws, rules, regulations, contracts, and grant agreements; the economic and efficient operation of the University; the reliability of records and reports; and the safeguarding of assets; (2) evaluate management's performance in these areas; and (3) determine whether the University had taken corrective actions for findings included in our report No. 2008-104. Also, pursuant

to Section 11.45(7)(h), Florida Statutes, our audit may identify statutory and fiscal changes to be recommended to the Legislature.

The scope of this operational audit is described in Exhibit A. Our audit included examinations of various records and transactions (as well as events and conditions) occurring during the 2008-09 fiscal year.

Our audit methodology included obtaining an understanding of the internal controls by interviewing University personnel and, as appropriate, performing a walk-through of relevant internal controls through observation and examination of supporting documentation and records. Additional audit procedures applied to determine that internal controls were working as designed, and to determine the University's compliance with the above-noted audit objectives, are described in Exhibit A. Specific information describing the work conducted to address the audit objectives is also included in the individual findings.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each university on a biennial basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA
Auditor General

MANAGEMENT'S RESPONSE

Management's response is included as Exhibit B.

EXHIBIT A
AUDIT SCOPE AND METHODOLOGY

Scope (Topic)	Methodology
Filing of statements of financial interests.	Reviewed Board of Trustees compliance with statement of financial interests filing requirements.
Fraud policy and related procedures.	Examined written policies and procedures related to the University's fraud policy and related procedures.
Social security number requirements of Section 119.071(5)(a), Florida Statutes.	Examined supporting documentation to determine whether the University had provided individuals with a written statement as to the purpose of collecting their social security numbers.
Banking services agreement.	Examined current banking services agreement and propriety of check signers, administrators, etc.
Loans to direct-support organizations.	Examined loan documents and repayment schedules for loans to the UCF Athletics Association, Inc.
Procedures for pharmaceutical inventory.	Reviewed internal audit procedures related to inventories at the University Pharmacy.
Office supply store sales procedures.	Evaluated accounts receivable listing for nongovernmental entities.
International student administrative service charge fees.	Determined whether fees and service charges assessed international students were in accordance with Florida Statutes.
Authorization and approval of graduate and professional tuition rates and out-of-state fees.	Compared tuition fees charged for graduate and professional courses to amounts authorized to ensure fees did not exceed 10 percent of previous year's fees and that fees covered the full cost of instruction.
Procedures for calculating activity and service, health, and athletic fees.	Compared out-of-state, activity and service, health, and athletic fees charged to amounts authorized by the Board of Trustees to ensure that fees did not exceed amounts authorized by law.
Student athletic fees.	Evaluated sufficiency of procedures related to student athletic fees and determined whether the University retained custody of such fees as required by Florida Statutes.
Parking permit collection procedures.	Evaluated collection procedures and examined daily collection reports.
Procedures for grade changes and issuance of diplomas.	Tested student grade changes and degree certifications, then examined supporting documentation to determine whether the proper authorizations were obtained prior to processing the change or degree.
Textbook affordability.	Examined supporting documentation to determine whether the University's procedures regarding textbook affordability were in accordance with Section 1004.085, Florida Statutes.

EXHIBIT A (Continued)
AUDIT SCOPE AND METHODOLOGY

Scope (Topic)	Methodology
State matching funds received pursuant to Section 1004.226(5), Florida Statutes.	Tested State matching funds received pursuant to Section 1004.226(5), Florida Statutes, to determine whether the University had placed the funds in University accounts.
Salary overpayment.	Reviewed University efforts to recover a salary overpayment to an employee.
Procurement policies and procedures.	Examined University regulations related to procurement for compliance with the Board of Governors' regulations.
Travel advance procedures.	Tested travel advances to determine if the advances were reconciled to actual travel reimbursements in accordance with University policies.
Procedures for monitoring taxes for cellular telephones.	Tested cellular telephone expenditures to determine whether the University paid taxes from which the University is exempt.
Procedures for multi-purpose cards.	Tested multi-purpose card transactions and determined whether supporting documentation was properly reconciled.
Procedures for verification of insurance requirements for architects and engineers.	Tested significant or representative major construction projects in progress during the audit period to determine whether the University had obtained evidence of required insurance from architects and engineers engaged during the audit period.
Procedures for insuring buildings.	Determined whether insurance coverage was updated for major asset acquisitions or disposals occurring in the audit period.

EXHIBIT B
MANAGEMENT'S RESPONSE



Office of the President

March 1, 2010

David W. Martin
Auditor General
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Martin:

I enclose with this e-mailed letter the University of Central Florida's response to the Auditor General's Preliminary and Tentative Operational Audit Report.

Thank you for the opportunity to respond.

Cordially yours,

A handwritten signature in black ink that reads 'John C. Hitt'.

John C. Hitt
President

JCH/ab

**University of Central Florida
Operational Audit
For the Fiscal Year Ended June 30, 2009**

**Preliminary and Tentative Audit Findings,
Recommendations, and Responses**

International Students Service Charge

Finding No. 1: The University assessed an administrative service charge for certain international students without specific statutory authority to do so.

Recommendation: The University should ensure that students are only assessed fees and charges that are clearly authorized by Florida Statutes.

Response: Board of Governors Regulation 7.003 (23) authorizes each University Board of Trustees to assess an international student service fee to cover the University costs associated with reporting requirements of the Student and Exchange Visitor Information System administered by the Department of Homeland Security for F-Visa and J-Visa degree seeking students.

Article IX, Section 7 of the Florida Constitution, which created the Board of Governors, is a self-executing constitutional provision. This means that the Board of Governors has the power of law in any area within the broad grant of powers given to it in the Constitution. Specific implementing legislation is not necessary. Any action of the Board of Governors within the scope of its constitutional grant of authority has the power of law. See *NAACP v. Florida Board of Regents*, 876 So.2d 636 (Fla. 1st DCA 2004). Accordingly, the Board of Governors does not need specific statutory authority to authorize the International Student Services Charge. That authority is clearly within its constitutional power to "operate, regulate, control, and be fully responsible for the management of the whole University system."

Office Supply Store Collections

Finding No. 2: The University's office supply store, Office Plus, extended credit to nongovernmental entities, contrary to Article VII, Section 10 of the Florida Constitution.

Recommendation: The University should discontinue the practice of extending credit to nongovernmental entities purchasing supplies from the Office Plus store.

Response: Article VII, Section 10 of the Florida Constitution prohibits the pledging of credit by a state agency for the benefit of a private party. It does not prohibit the extension of credit. Otherwise, the University would not be able to bill for services it provides. Rather, it would have to receive cash in advance for services. This is not a valid interpretation of this constitutional provision. In *Nohrr v. Brevard County Educational Facilities Authority*, 247 So. 2d 304 (Fla. 1971), the Supreme Court of Florida stated that : The word 'credit' as used in Fla. Const., art VII, s.10 (1968), implies the imposition of some new financial liability upon the state or a political subdivision, which, in effect, results in the creation of a state or political subdivision debt for the benefit of a private enterprise. In order to have a gift, loan, or use of public credit, the public must be either directly or contingently liable to pay something to somebody."

**University of Central Florida
Operational Audit
For the Fiscal Year Ended June 30, 2009**

**Preliminary and Tentative Audit Findings,
Recommendations, and Responses**

In the case of OfficePlus, the University is billing vendors for supplies. The University is not directly or contingently obligated to pay something to somebody and is therefore not pledging the credit of the state. See also Attorney General Opinion 82-58, 90-16 and 82-42, which also support this position.

Loans to a Direct-Support Organization

Finding No. 3: The University had previously made \$9.4 million of loans to the UCF Athletics Association, Inc., a University direct-support organization, without specific legal authority to do so. As of June 30, 2009, the Association had not returned the \$9.4 million to the University, although the University has set up a repayment schedule for those loans.

Recommendation: The University should continue their efforts to ensure that these funds are returned to the University's accounts.

Response: The University is continuing its efforts to work with the UCF Athletics Association on the repayment of the funds. The University has established a repayment schedule for the Association to begin repayment.

Implementation Date: 6/30/10

21st Century World Class Scholars Program

Finding No. 4: The University had previously transferred \$2 million of State matching funds received under the 21st Century World Class Scholars Program to the University of Central Florida Foundation, Inc., (Foundation) without specific legal authority to do. As of June 30, 2009, these funds had not been returned to the University.

Recommendation: The University should seek to return the \$2 million in State matching funds to the University's accounts.

Response: Florida Statute Section 1004.28 creates direct support organizations which are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a state University in Florida. The University of Central Florida Foundation, Inc. is a direct support organization whose purpose is to collect and administer charitable gifts and grants for the benefit of the University of Central Florida. The legislature has recognized this as an appropriate activity of a Direct Support Organization in Section 1004.28 by creating an exemption from the public records law for "The identity of donors who desire to remain anonymous." Therefore, the UCF Foundation is the appropriate custodian for the 21st Century World Class Scholar funds.

**University of Central Florida
Operational Audit
For the Fiscal Year Ended June 30, 2009**

**Preliminary and Tentative Audit Findings,
Recommendations, and Responses**

Collection of Social Security Numbers

Finding No. 5: The University, in some instances, collected the social security number (SSN) of individuals without providing the individuals a written statement of the purpose for collecting the SSN, contrary to Section 119.071(5)(a), Florida Statutes.

Recommendation: The University should continue its efforts to ensure that the required written statements are provided to individuals when social security numbers are collected as required by Section 119.071(5)(a), Florida Statutes.

Response: Agreed; implemented immediately.

Implementation Date: 10/1/09