Internal Audit Division

Preliminary Results: Separation Agreement Review

Presented to the Oregon State Board of Higher Education Governance and Policy Committee
April 29, 2010
Discussion Items

1. Review the three engagement objectives and conclusions

2. Discuss recommendations for improvements

3. Outline next steps/action plans
Internal Audit Standards

• The engagement was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing*.

• The fieldwork took place during April 2010 and focused on events surrounding the separation agreement between the UO and Michael Bellotti, former Athletic Director.

• Oregon University System Internal Audit Division (IAD) conclusions are based upon representations made to us by management, which were verified on a judgmental basis.
Background

• On March 13, 2009, University of Oregon (UO) President Dave Frohnmayer appointed Michael Bellotti, then UO Head Football Coach, as Athletic Director effective July 1, 2009.

• A written agreement between UO and Mr. Bellotti as Athletic Director (AD) was never executed.

• Dr. Richard Lariviere became UO President on July 1, 2009.

• A written separation agreement (“Resignation and Release of Claims”) between the UO and Mr. Bellotti totaling $2.3 million to be paid with interest over a period of time was completed on March 19, 2010.
Objective 1:

Determine if Oregon laws, rules, and Board policies were followed in the employment agreement between the university and Mr. Bellotti, in the process of developing the separation agreement, and in the separation agreement itself.

Conclusion:

During the course of IAD review, instances were noted where the Board and UO rules, policies, and procedures were unclear and in some circumstances not followed, resulting in a lack of internal controls over athletics employment contracting practices.
Objective 2:

Determine whether tuition revenue or state appropriations were or will be used to pay obligations under Mr. Bellotti’s separation agreement.

Conclusion:

IAD confirmed that as of April 21, 2010, $3 million in private donor funds, specifically designated for the Athletic Department, is available and will be used to fund the separation payments outlined in the agreement. Therefore, no state appropriation or tuition funds have been or will be used. It was represented by the UO Foundation that these funds were not intended to be used for other athletics operational expenses.
Objective 3:
Determine if the Board is employing best practices in athletic employment and separation agreements within public higher education nationally.

Conclusion:
During the course of our fieldwork we noted several opportunities to improve the control structure and implement best practices.
Recommendations

1. Update Board policies to enhance accountability over athletic department multiple-year employment contracts.

2. Reevaluate and document University-level responsibilities over athletics.

3. Ensure the timely completeness of formally agreed upon terms and conditions for University employees with multiple-year employment agreements.
Recommendation #1

Condition noted:
Oregon University System policies do not clearly delineate responsibility over athletics and has not been updated to reflect current employment practices for multiple-year contracts.

- IMD Section 1- Administration Organization and Procedures
- IMD Section 8 – Policy for Intercollegiate Athletics
- OAR 580-21-0005 – Oregon University System Conditions of Service Appointment Procedures

✓ Staffing devoted to the establishment of governance and human resource policy does not exist within the Chancellor’s Office.
Recommendation #1

The Association of Governing Boards (AGB) Statement on Board Responsibilities for Intercollegiate Athletics states:

“Boards should delegate direct responsibility for the conduct and control of the athletics department of the institution to the institution’s chief executive. This authority must be explicitly defined, clearly understood, and articulated in a formal policy statement. It should be reinforced by consistent and visible public support of the chief executive. (4)”

The NCAA Constitution, Article 6.1.1 Institutional Governance which outlines:

A member institution’s president or chancellor has ultimate responsibility and final authority for the conduct of the intercollegiate athletics program and the actions of any board in control of that program. (43)

Note- “board” refers in institutional advisory board (i.e., council over athletics reporting to the president.)

Recommendation #1

Recommendation:

Update Board policies to enhance accountability over athletics multiple-year employment contracting:

- Ensure role over athletics accountability is well defined
- Ensure approvals of multiple-year contracts is clarified and enforced by the Chancellor’s Office.

Action Plan (for discussion):

The Committee will charge the Chancellor’s Office with evaluating policy and procedure structure for future Board approval and action.
Recommendation #2

Condition Noted:

• IAD noted that university-level responsibilities over athletics employment contracting were not clearly defined, specifically as it related to the President, General Counsel, and Athletic Director.

• IAD also noted instances where employment contracts were not completed in a timely manner.
Recommendation #2

Recommendation:
Reevaluate and document university-level responsibilities over athletics.

Action Plan:
The University has recently defined roles and will be formally documenting practices.
Recommendation #3

Condition noted:

- IAD noted a need to strengthen the control structure over the UO employment contracting process.
- The University process allowed for employees with multiple-year agreements to be paid without a signed contract and follow-up procedures were not performed.
Recommendation #3

Recommendation:
Ensure the timely completeness of formally agreed upon terms and conditions for University employees with multiple-year employment agreements.

Action Plan:
• It was represented that the University has recently put in a practice of requiring a signed MOU for standard terms and conditions prior to payment.

• The central university human resource office will be charged with ensuring multiple-year contracts are completed in a timely manner and maintained in central office files at the University.
Next Steps

1. Issue draft report, obtain written responses, issue final report by May 14th Board meeting.

2. Continue to work with the University and System administrators (in assisting the new Senior Associate Athletic Director for Finance and Administration) to obtain a better understanding of the finances and overall employee costs associated with the UO Athletic Department.
Questions?