

Affiliation Agreement with Eller Executive Education

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FY14 - #13

Submitted to:

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Summary

Our audit of the University of Arizona's ("UA") affiliation agreement with Eller Executive Education ("EEE") was included in our approved Fiscal Year ("FY") 2014 Audit Plan. EEE is an example of a partnering activity to enhance UA's impact on the local and global community, as desired under UA's *Never Settle Strategic Plan*. We have not previously audited the EEE affiliation agreement.

Background: EEE was established as a separate non-profit corporation in 2012 and entered into an affiliation agreement with UA on October 9, 2012. EEE's objective was to build on existing UA professional development courses taught by Eller College of Management ("Eller College") faculty. According to the affiliation agreement section B:

EEE exists to acquire, manage, and distribute funds for the benefit of the University of Arizona colleges, and to strategically develop and administer the non-degree, non-credit continuing and executive education programs offered through the Eller College of Management and on occasion the University of Arizona Outreach College or its division of Professional Development acting on behalf of other University colleges.

As a non-profit separate from UA, EEE has some additional flexibility for contracting with companies and expending resources up front to develop programs that UA may not have. Under the affiliation agreement, UA continues to provide marketing support to EEE as was provided to executive education programs under the Eller College. In addition, EEE may rent space from UA at market rates for programs and trainings. When EEE distributes net revenues to UA departments, the departments pay a reduced administrative service charge rate to UA.

EEE was initially funded by a transfer of funds designated for EEE development purposes from the University of Arizona Foundation ("UAF"), as described in the affiliation agreement. EEE pays its ongoing expenses through the fees it charges clients to attend its courses. EEE also utilizes an agency fund at UA where payroll charges and other expenses are recorded and then reimbursed to UA by EEE.

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EEE is governed by a seven-member Board of Directors. Board members are appointed by the UA President with input from the UA Vice President for Outreach and the Dean of the Eller College. As of December 2014, Board membership is as follows:

EEE Board Members	Affiliation
College of Engineering Dean	UA employee
Senior Vice President, Student Affairs and Enrollment Management/Senior Vice Provost, Academic Initiatives and Student Success	UA Employee
Vice President, Global initiatives	UA Employee
4 Board Members	Public/Non-UA

According to EEE's by-laws, the officers of EEE are appointed by the Dean of the Eller College and confirmed annually by the Board of Directors. As of December 2014, the officers are as follows:

EEE Management	UA Title
President	Associate Dean for Executive Education and Professor of Management and Organizations, Eller College
Vice President	Assistant Dean for Executive Education and Professor of Practice, Eller College
Secretary/Treasurer	Assistant Dean for Finance and Administration, Eller College

EEE is considered a discretely presented component unit of the UA, and as such, its financial statements are included with other component units in UA's *Comprehensive Annual Financial Report*.

Audit Objective: Our primary audit objective was to determine whether adequate controls exist within UA to ensure compliance with the terms of the affiliation agreement.

Scope: The scope of this audit included the terms of the EEE affiliation agreement, dated October 9, 2012, and UA's actions related to that agreement through FY 2014.

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Methodology: Our audit objective was accomplished by performing the following:

- Meeting with the Senior Vice President for Academic Affairs and Provost and the Associate Vice President for Academic Resources Planning and Management (now retired);
- Meeting with Eller College staff to discuss EEE procedures (EEE job titles, where applicable, are included in parentheses):
 - Current Dean/prior Vice Dean,
 - Associate Dean, Executive Education (President), and
 - Assistant Dean, Finance and Administration (Secretary and Treasurer);
- Obtaining a copy of the EEE bylaws and articles of incorporation and comparing to the terms of the affiliation agreement to determine compliance;
- Discussing the activities of EEE with the following EEE board members: two UA employees (College of Engineering Dean and Vice Provost for Outreach and Global Initiatives), one former UA employee, and one public/non-UA;
- Reviewing ABOR guidelines and UA policy related to component unit affiliate organizations;
- Identifying all transfers of funds from EEE to UA using UAccess Analytics and verifying that the administrative service charge was in compliance with the terms of the affiliation agreement, as well as reviewing administrative service charge procedures with Financial Services Office Accountant, Senior;
- Obtaining all *Facilities Use Agreements* leasing space to EEE from Real Estate Administration and comparing to EEE course listings;
- Reviewing EEE bank statements for FY 2014 and ensuring that no UA or State of Arizona monies appeared to have been deposited;
- Confirming fund transfers from the UAF to EEE with the UAF Vice President, Financial Services and Comptroller;
- Comparing samples of EEE letterhead and other documents to the trademark licensing terms in the affiliation agreement and discussing the use with UA's Director of Trademarks and Licensing;
- Reviewing the EEE website to identify courses offered and locations utilized;
- Reviewing the terms of EEE's contract with a third party to offer online certificate programs;

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- Discussing monitoring procedures with the Office of General Counsel;
- Confirming EEE's insurance coverage was reasonable and met UA's requirements with the Assistant Vice President for Risk Management and Safety;
- Discussing communication between EEE and UA with two Eller College department heads; and
- Contacting the Office for the Responsible Conduct of Research for information regarding conflict of interest and commitment disclosures.

Conclusion: UA experienced significant changeover in leadership in July 2012, including the President and the Provost, followed shortly by the commencement of the affiliation agreement with EEE in October 2012. Since the agreement was signed, the Provost's Office and EEE have worked together to clarify the terms of the affiliation agreement and refine the quarterly reporting. As questions arose early on about how the agreement would be handled, the Provost's Office worked with other administrative units to specify how UA policies should be followed under the agreement. This included issuing a memo in 2013 that included further details and specifications about three sections of the agreement and consulting with the Financial Services Office to clarify how additional payments to UA employees who also provided support for EEE should be handled.

The Provost's Office also worked with EEE to define the format of the quarterly reports so that the reports were clear and met the requirements of the affiliation agreement. EEE prepared the reports as requested; however, the Provost's Office had not developed an internal process to carefully review the reports, follow-up with questions as needed, and ensure that EEE's activities remained in compliance with the affiliation agreement and the best interests of UA.

The existing communication between EEE and the Provost's Office can be built upon to further improve the monitoring and oversight of EEE. As further described in the following *Audit Results, Recommendations and Responses* section, this will help ensure that both UA and EEE are able to continue to function effectively as non-credit executive education courses grow and expand.

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Now that the agreement has been in place for over two years, UA administration should revisit the terms of the agreement and improve communication in order to determine whether the agreement still supports UA's mission and strategic plan. There may be opportunities to improve the terms to ensure the needs of both UA and EEE are met. We noted the following terms of the agreement that could be reevaluated:

- The agreement doesn't specify how student and client data held by EEE should be protected.
- When funds are received from EEE by UA departments, the administrative service charge typically assessed on revenues in order to cover institutional indirect costs associated with generating the revenue is discounted to 60% of the typical rate. Because EEE utilizes several UA systems to pay for expenses that are then reimbursed to UA, there are still institutional administrative costs associated with the revenue generated from EEE.
- Faculty conflict of interest and commitment is addressed in a section of the agreement, as EEE commonly hires UA faculty to teach the executive education courses. This section could be clarified to help ensure UA faculty are aware of their responsibilities related to their consulting work with EEE.

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According to the Institute of Internal Auditors International Professional Practices Framework, an organization is expected to establish and maintain effective risk management and control processes. These control processes are expected to ensure, among other things, that:

- The organization’s strategic objectives are achieved;
- Financial and operational information is reliable and possesses integrity;
- Operations are performed efficiently and achieve established objectives;
- Assets are safeguarded; and
- Actions and decisions of the organization are in compliance with laws, regulations, and contracts.

Our assessment of these control objectives as they relate to the EEE affiliation agreement is presented below.

General Control Objectives	Control Environment	Audit Result	
		No.	Page
Achievement of the Organization’s Strategic Objectives			
<ul style="list-style-type: none"> • UA monitored EEE’s activities to ensure they benefited UA and supported UA strategic objectives. 	Opportunity for Improvement	1	7
Reliability and Integrity of Financial and Operational Information	Not applicable		
Effectiveness and Efficiency of Operations	Not applicable		
Safeguarding of Assets	Not applicable		
Compliance with Laws and Regulations			
<ul style="list-style-type: none"> • UA and EEE complied with the terms of the affiliation agreement. 	Opportunity for Improvement	1	7

We appreciate the assistance of UA and EEE employees during this audit.

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Audit Results, Recommendations and Responses

1. UA does not monitor for compliance with the terms of the affiliation agreement.

Condition:

UA does not have procedures in place to monitor for compliance with the terms of the affiliation agreement with EEE. The agreement includes multiple stipulations and requirements; however, no procedures have been established to ensure both parties were in compliance.

A number of issues were identified, including:

- UA did not review and evaluate for approval a quarterly list of program and course listings from EEE. Although a quarterly list of courses was provided by EEE at the end of each quarter, the agreement presumably refers to a review before courses are offered, as approval may be withheld.
- Because quarterly course listings were not reviewed by UA, there were not procedures in place to ensure that all UA classroom space was rented at market rates.
- UA did not have procedures in place to review the quarterly reports submitted by EEE and to follow up as needed on a regular basis. In addition, although these reports included information about payments to UA employees, UA does not approve these payments from EEE prior to issuance.
- The EEE bylaws were not updated to include all provisions required by the agreement, including specifying that all assets be distributed to UA upon dissolution.
- Procedures were not in place to review EEE communications to ensure that it was clear that EEE was legally separate from UA and the State of Arizona. EEE's use of allowable UA trademarks incorporated additional words into the trademarks, which is not in compliance with the affiliation agreement and may lead a viewer to believe EEE is part of UA and not a separate legal entity.

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Criteria:

- Good business practices suggest that the terms of an agreement be monitored to ensure that both parties comply with the terms, as negotiated and agreed upon.
- The affiliation agreement includes the following specifications:
 - 1.1.4: “Quarterly, EEE shall provide a list of all EEE program and course listings to the University for its review, and approval of the course listings.”
 - 2.1.1 Space: “EEE may utilize office and classroom space in University buildings at market rates.”
 - 1.3.5 Accountability: “To assure that resources acquired by EEE are expended for the ultimate benefit of University, as long as this Agreement is in effect EEE shall provide to University, not less than annually, [specific reports and operational data].”
 - 1.2 Bylaws of EEE: “EEE shall adopt Bylaws, which at a minimum contain the following provisions:
 - R. Upon dissolution, all of the assets of EEE shall be distributed to the University.”
 - 3.3.4 Affiliate Status: “EEE may describe itself in public communications as ‘an independent executive education organization affiliated with the Eller College of Management, University of Arizona,’ or other such terms of similar import, provided that no such description shall represent or imply that EEE is owned or operated by the State of Arizona, the Arizona Board of Regents, or the University of Arizona.”

Cause:

An employee in UA’s Senior Vice President for Academic Affairs and Provost’s office was designated to maintain reports and emails submitted by EEE. However, the employee did not regularly review the information provided and did not provide any applicable approvals to EEE in response to the documents.

Effect:

UA’s interests may not be adequately protected if EEE is not in compliance with the negotiated terms of the agreement.

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Recommendations:

1. Identify who is responsible for monitoring compliance with the affiliation agreement. Consider whether best practices from existing UA compliance offices, including Contract and Research Services, Sponsored Projects Services, and/or Procurement and Contracting Services, can be utilized in monitoring this agreement.
2. Review the terms of the affiliation agreement and identify the key controls that EEE must comply with and that UA should monitor. If necessary, prepare an amendment to the agreement to adjust the terms. If, after a risk assessment is performed, it is determined that certain terms of the agreement will not be monitored, ensure that a UA official with adequate authority approves this acceptance of risk.

Management Response: Target Implementation Date: June 30, 2016.

1. The Provost's Office will develop an internal process to review EEE reports and follow up as needed to monitor compliance with the agreement.
 - a. One or more individuals in the Provost's Office will be identified as responsible for this monitoring. The EEE agreement has both financial and academic components. Therefore, depending on the outcome of recommendation/response #2, the appropriate expertise from the office will be drawn upon to fill the monitoring role(s) (e.g., Senior Assistant Vice President for Finance and Administration, Senior Vice Provost for Academic Affairs).
[Target date: Oct 1, 2015]
 - b. The Provost's Office will contact existing UA compliance offices to identify potential best practices to implement in monitoring the agreement.
[Target date: Oct 1, 2015]
2. The Provost's Office will initiate a review of terms and controls in the agreement and, if necessary, prepare an amendment to adjust it accordingly.
[Target date: June 30, 2016]
 - a. This review will include a risk assessment of terms to be monitored. If it is determined that some terms will not be monitored, an appropriate UA official will need to approve this acceptance of risk.
 - b. The review process will include consultation with the Eller College Dean's Office as well as other central administration offices as necessary.