Conflicts of Interest

Internal Audit Report No. R2109
May 17, 2021

Executive Summary

Audit Objective: To assess the effectiveness of UT Dallas' program for identifying, monitoring, and managing conflicts of interest, commitment, and outside activities.	
Conclusion: The audit resulted in significant opportunities to enhance operations, monitoring, guidance, and policies and programs within the conflicts of interest programs.	
Observations by Risk Level: Management has reviewed the observations and has provided responses and anticipated implementation dates.	

| Observation	Risk Level	Management's Implementation Date
1. Implement Risk Management Model to Ensure Adequate Separation between Operations and Compliance Monitoring	**High**	December 31, 2021
2. Implement Management Action Plan to Address COI Related to Foreign Influence	**High**	December 31, 2021
3. Develop More Specific Guidelines for Researchers and Update Policies	**Medium**	December 31, 2021
4. Create a Process to Ensure Purchasing Is Aware of Conflicts of Interest	**Medium**	August 31, 2021
For details, engagement methodology, and explanation of risk levels, please see the attached report.		

Observation #1: *Implement Risk Management Model to Ensure Adequate Separation between Operations and Compliance Monitoring*

High Risk:
Without an adequate separation between operating and compliance roles, the risks of conflicts of interest occurring and not being detected in a timely manner is increased.

Conflicts of interest present a significant risk to the institution, where an employee's outside activities can influence the decisions they make for the university. The current organization model at UT Dallas combines the first and second lines of the three lines model[1], resulting in a lack of separation and monitoring. The following opportunities exist to ensure risks association with conflicts of interest are properly managed:
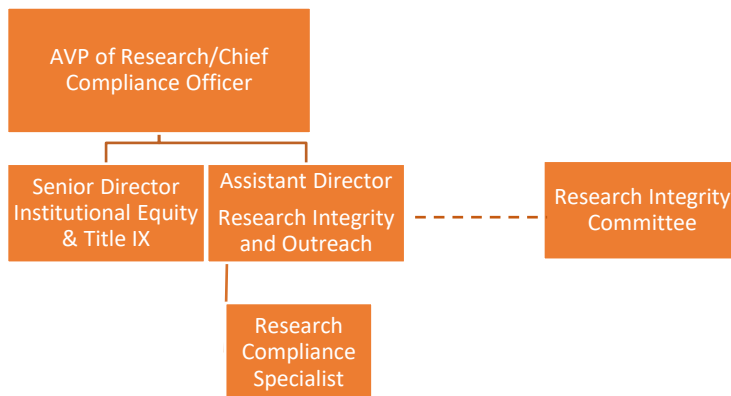
1. ***Separate Operations and Monitoring Roles in Research***
    The Assistant Director for Research Integrity and Outreach serves as both the first line (designing and advising on risk management plans) and second line (monitoring risk management plans and conducting investigations) for conflicts of interest. Although risk management plans and investigations also include committees, the final resolution and monitoring of the investigations and plans is performed by the Assistant Director. This creates not only a lack of separation of duties but also creates a heavy workload on the Assistant Director.

THREE LINES MODEL

Effective risk management ensures that risks are mitigated by various groups/lines with a level of independence between them:

1. **Functions that design, own, maintain, and manage risks.** This line includes operating management and staff.
2. **Functions that oversee risk.** These functions typical oversee and support the various high risks designated by executive leaderships, such as the compliance function, information security, etc. and are established to monitor operating management's risk management plans
3. **Functions that provide independent assurance.** Internal auditors provide executive leadership and the ORC with an independent level of assurance regarding the effectiveness of governance, risk management, and internal controls, including how the first and second lines achieve their objectives.

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[1] The Three Lines Model was developed by the European Union to demonstrate risk management. The Institute of Internal Auditors has a new position paper describing the three lines model. Refer to https://na.theiia.org/about-ia/PublicDocuments/Three-Lines-Model-Updated.pdf

One issue that resulted from this lack of separation and the current structure and policies was noted during the audit. Approvals of management plans for research conflicts of interest (COIs) may not go before the Research Integrity Committee depending on the risks outlined during the intake of the COI. In one example, the focus on the management plan was ensuring coverage by another faculty member for classes during the Leave of Absence (LOA). The reviewers from the Office of Research Compliance (ORC) did not view the risks as research-related; thus, a review by the Research Integrity Committee was not required based on the Outside Activity Policy outlined at https://policy.utdallas.edu/utdpp1102. A further review found possible connections to the Principal Investigator's research and National Science Foundation funding. Had a separate monitoring function been in place, this issue may have been detected and resolved in a more timely manner.

2. Separate Research Compliance from Institutional Compliance

As depicted in the organization chart, the Assistant Director of Research Integrity and Outreach reports reports to the Associate Vice President for Research, who *also* serves as the UTD Chief Compliance Officer and oversees the Office of Insitutional Compliance, Equity, and Title IX Initiatives (ICET). This office is also responsible for handling non-research conflicts of interest. The position handling institutional conflicts of interest was recently vacated, and oversight of the process is currently being handled by the Senior Director of Institutional Equity and Title IX. While this ensures coverage of institutional COIs, it also poses resourcing challenges for equity and Title IX investigations.

3. Determine Best Systems and Processes for COI Management

A COI management system was developed by the Office of Research to handle research COIs. Another system was created by UT System to handle institutional COIs. As a result of the current organization structure, staff may be pushed to the research system, without regard to the COI type, to manage COIs. Also, the Assistant Director for Research Integrity and Outreach currenty is currently engaged in handling COIs from both Institutional Compliance and Research due to resource constraints. This approach can cause confusion to the campus community.

> **Recommendation:** Consider implementing a structure similar to the three lines model to ensure that the operations, monitoring and investigations functions in research compliance are separate. Evaluate the current structure, systems, and processes for handling research and non-research conflicts of interest for efficiency and enhanced oversight.

Management's Action Plan: The conflict of interest and commitment program will implement a series of structural and procedural changes to begin the process of executing the 'three lines model' of risk management. This plan takes advantage of existing strengths and available resources to address priority risks and lay the foundation for a program structure that will fully incorporate the model as the program matures. This plan will improve first-line functions by assigning operational responsibilities to specific personnel, and consolidating primary responsibility for first-line responsibilities into the Office of Research. The plan will strengthen second-line oversight functions performed by the Conflict of Interest Official, Approval Authorities, and Review Panel members through procedural and educational controls. The table below identifies the first- and second-line responsibilities by position.

RISKS		Specialist I	Specialist II	Manager [Unfilled]	Assistant Director	Institutional Compliance Official	Business Offices	Conflict of Interest Officials	Approval Authority	Review Panel	Internal Audit
	Substantial Conflict	Operational [Client]	Operational [Monitoring]		Operational [Management]	Operational [Investigations]		Oversight	Oversight		Assurance
	Undisclosed Financial Interest	Operational [Client]	Operational [Monitoring]		Operational [Management]		Operational [Monitoring]	Oversight			Assurance
	Unauthorized Outside Activity	Operational [Client]	Operational [Monitoring]		Operational [Management]		Operational [Monitoring]		Oversight		Assurance
	Un-Managed Conflict of Interest	Operational [Client]			Operational [Management]	Operational [Investigations]	Operational [Monitoring]	Oversight		Oversight	Assurance
	Failed Management Plan		Operational [Client]		Operational [Management]	Operational [Investigations]	Operational [Monitoring]			Oversight	Assurance
	Actual Conflict of Interest		Operational [Client]		Operational [Management]		Operational [Monitoring]	Oversight	Oversight	Oversight	Assurance
	Actual Conflict of Commitment		Operational [Client]		Operational [Management]		Operational [Monitoring]			Oversight	Assurance

First Line
- Consolidate client/customer service responsibilities into the Office of Research
- Add first-line monitoring for employee performance of COI obligations
- Assign client and monitoring responsibilities to different COI office personnel
- Strengthen monitoring functions of partner business offices through regular reports to the COI Office and training of department liaisons
- Implement shared investigation protocol with Institutional Compliance
- Consolidate institutional policies into single COIC policy
- End use of the UT System portal and route all disclosures through the OAR system

Second Line
- Designate an additional Conflict of Interest Official
- Create detailed approval forms/checklists for use by oversight officials
- Expand training for oversight officials
- Identify role for oversight official(s) in investigation protocol
- Increase reporting between first- and second-line personnel

Person Responsible for Implementation: Conor Wakeman, Assistant Director, Office of Research Integrity and Outreach

Estimated Date of Implementation: December 31, 2021

Observation #2: *Implement Management Action Plan to Address COI Related to Foreign Influence*

High Risk:
Without an effective plan, COIs related to foreign interest may occur and not be detected in a timely manner which could result in noncompliance with federal regulations and reputational harm.

In April of 2019, the University of Texas System Chancellor directed all institutions to complete an Institutional Plan to Address Foreign Influence on Research. These plans provide assurance to the Board of Regents and leadership that institutions are in compliance with granting agencies requirements and that intellectual property is being protected. One of the required elements of the plan is to "update and enforce conflicts of interest and outside activities disclosure programs."

The Office of Research Compliance developed an action plan that was due on December 31, 2019; however, it has not been completed due to resource constraints.

Recommendation: Review and fully complete the existing conflicts of interest action plan.

Management's Action Plan: The Office of Research has implemented personnel and procedural controls to address the risks of undue foreign influence on UTD research, and intends to implement policy controls and other necessary procedural controls by the end of the calendar year 2021. This timeframe may be affected by further changes to federal COIC regulations. Research has focused its efforts to date on addressing risks related to nondisclosure of research positions, resources, and other relationship that may affect the integrity of federally funded research. The table below identifies the distribution of responsibilities for foreign interference controls. This response focuses on actions necessary to address the risks for substantial conflicts and undisclosed relationships (rows #1-4).

		Technology Commercialization	Sponsored Projects	International Students & Scholars Human Resources	Academic Schools	Development	Specialist I	Specialist II	Manager [Unfilled]	Assistant Director	Institutional Compliance Official	Information Security	Conflict of Interest Officials	Internal Audit
RISKS	Substantial Conflict						Operational [Client]	Operational [Monitoring]		Operational [Management]	Operational [Investigations]		Oversight	Assurance
	Nondisclosure of UTD resource	Operational [Client]	Operational [Client]			Operational [Client]	Operational [Client]	Operational [Monitoring]		Operational [Management]		Operational [Investigations]	Oversight	Assurance
	Nondisclosure of external resource		Operational [Client]	Operational [Client]			Operational [Client]	Operational [Monitoring]		Operational [Management]		Operational [Investigations]	Oversight	Assurance
	Unapproved Foreign Component		Operational [Client]				Operational [Client]	Operational [Monitoring]		Operational [Management]		Operational [Investigations]	Oversight	Assurance
	Unauthorized Visiting Scholar			Operational [Client]	Operational [Client]			Operational [Client]		Operational [Management]	Operational [Investigations]		Oversight	Assurance
	Unauthorized Data Transfer							Operational [Client]		Operational [Management]		Oversight		Assurance
	Disclose Confidential Information	Operational [Client]	Operational [Client]					Operational [Client]		Operational [Management]		Oversight		Assurance
	Release Intellectual Property rights	Operational [Client]					Operational [Client]	Operational [Monitoring]		Operational [Management]			Oversight	Assurance
	Scientific Misconduct		Operational [Client]		Operational [Monitoring]			Operational [Client]		Operational [Management]	Operational [Investigations]		Oversight	Assurance
	Grant Fraud		Operational [Client]			Operational [Client]		Operational [Client]		Operational [Management]	Operational [Investigations]		Oversight	Assurance

RESPONSIBLE PERSON/OFFICE

Existing Controls

- Publish guidelines for reporting research activities and relationships to UTD and to federal funding agencies
- Publish guidelines for identifying foreign talent programs
- Collect COIC disclosures from visiting scholars contributing to externally funded research
- Revise COIC component of institutional compliance training to include foreign influence and examples of conflicts of interest
- Monitor federal funding proposals for undisclosed foreign relationships
- Monitor outside activity requests for substantial undisclosed conflicts
- Collect and evaluate appointment letters, contracts, and agreements related to foreign relationships and academic appointments
- Obtain access to open-source information collection tools

Planned Controls

- Revise COIC policies to incorporate foreign relationship disclosure and evaluation (policy proposal is drafted and undergoing stakeholder review)
- Revise COIC disclosure and management forms to incorporate foreign relationships (disclosure form changes are drafted and waiting on policy proposal feedback)
- Revise COIC evaluation tools to address foreign influence risks (evaluation form changes are drafted and waiting on policy proposal feedback)
- Publish guidelines for engaging in academic and industrial collaborations that are related to federally funded research
- Implement COIC disclosure as part of visiting scholar approval process
- Publish training for researchers about recognizing and avoiding foreign influence
- Explore possibility of automating report of research support and resource information for researchers' use in federal research

Person Responsible for Implementation: Conor Wakeman, Assistant Director, Office of Research Integrity and Outreach

Estimated Date of Implementation: December 31, 2021

Observation #3: *Develop More Specific Guidelines for Researchers and Update Policies*

Medium Risk:
Without guidelines outlining the possible results of a researcher's non-compliance with COI policies, employees may not be aware of the repercussions of violating the policy, or situations that can constitute a violation. Additionally, lack of language within a policy may cause challenges if the institution decides to pursue a violation.

Current UTD policies do not outline what constitutes a research or intellectual property violation. Within UT System's policy, UTS 180 - Conflicts of Interest, Conflicts of Commitment, and Outside Activities, language is provided for the possible repercussions of noncompliance with the policy. This language is not reflected in local UTD policies. Also, while online guides covering policies are available, there is currently no structured or formal training conducted for departments that may face specific COI risks.

Additionally, the Office of Research Compliance (ORC) stated that there are no explicit rules that outline repercussions for COI violations. If an explicit or intentional violation is found, the researcher's supervisors may be notified; however, this is not specifically stated within a policy or procedure.

Recommendation: Develop more specific guidelines for researchers that define and provide consequences for intellectual property violations, including training that addresses specific COI risks.

Management's Action Plan:

The COIC office will publish detailed policy requirements for non-compliance and enforcement, and improve shared compliance planning when violations fall under multiple institutional policies.

- Implement requirements for non-compliance and enforcement incorporated the policy revision proposal currently undergoing stakeholder review (see excerpt below)
- Emphasize non-compliance and enforcement in COIC training after publication of the policy revision
- Develop enforcement mechanisms for research COIs and obtain approval from the Research Integrity Committee
- Collaborate with the Office of Technology Commercialization to develop enforcement mechanisms for intellectual property policy violations that are related to a conflict of interest
- Collaborate with Academic Affairs to develop enforcement mechanisms for faculty conduct policy violations that are related to a conflict of interest

Excerpt from COIC policy revision proposal

Sec. 17 Non-compliance and Enforcement

17.1 Non-compliance with this policy may subject one to discipline in accordance with applicable procedures up to and including termination of employment. Examples of actions constituting noncompliance with this policy include:
1. Apparent or actual use of the person's position at UT Dallas for personal benefit
2. Engaging in activities, interests, and relationships in substantial conflict with the person's institutional responsibilities to UT Dallas
3. Failure to disclose activities, interests, or relationships that create the appearance for conflict of interest or commitment
4. Failure to identify their institutional responsibilities that may be biased or unduly influenced by a conflict of interest or commitment
5. Failure to comply with the conditions of a Management Plan

17.2 If the Conflict of Interest Official learns of a financial interest or relationship related to a UT Dallas person's institutional responsibilities that was not timely disclosed or was not timely reviewed, the Conflict of Interest Official must, not later than the 60th day after learning of the interest make a determination as required by Section 7 of this policy and, if a conflict of interest exists, implement an interim management plan or implement other interim measures to ensure the objectivity or integrity of the institutional responsibility.

17.3 In addition, if a conflict of interest related to an institutional responsibility was not identified or managed in a timely manner, or if a UT Dallas person fails to comply with a management plan, the Conflict of Interest Official must, not later than the 120th day after determining noncompliance complete and document a retrospective review and determination as to whether the institutional responsibility conducted during the period of noncompliance was biased or unduly influenced, and implement any measures necessary with regard to the UT Dallas person's participation in the institutional responsibility between the date that the noncompliance is identified and the date the retrospective review is completed. For noncompliance reviews related to PHS-funded research, the retrospective review must cover key elements as specified by federal regulations and may result in updating the Financial Conflict of Interest Report, notifying the PHS, and submitting a mitigation report as required by federal regulation.

17.4 Federal regulations, 42 CFR Part 50, Subpart F, and 45 CFR Part 94, require UT Dallas to notify the PHS of instances in which the failure of a UT Dallas person to comply with this policy or a management plan appears to have biased the design, conduct, or reporting of PHS-funded research. The PHS awarding component may take enforcement action or require the institution to take action appropriate to maintaining objectivity in the research. UT Dallas must make information available to HHS or the PHS awarding component as required by federal regulation.

17.5 The Conflict of Officials, in cooperation with the person's Review Panel members and/or other appropriate officials, will enforce compliance with this policy through measures, including but not limited to the following, intended to ensure the integrity of the institutional responsibilities that are or may be affected by the conflict of interest or commitment.

1. Additional education and/or training
2. Increased monitoring of the institutional responsibility biased or unduly influenced by the conflict of interests or commitment
3. Modification or cessation of the person's institutional responsibilities biased or unduly influenced by the conflict of interests or commitment
4. Reduction or severance of the activities, interests, or relationships that create the conflict of interest or commitment
5. Disclosure of the conflict of interest to external agencies, organizations, or individuals who were or may have been affected by the conflict of interest or commitment
6. Other actions deemed necessary by the Conflict of Interest Officials, University Research Integrity Committee, or the Provost

Person Responsible for Implementation: Conor Wakeman, Assistant Director, Office of Research Integrity and Outreach

Estimated Date of Implementation: December 31, 2021

Observation #4: *Create a Process to Ensure Purchasing Is Aware of COIs*

Medium Risk:
Without a defined process for identifying potential conflicts of interest, payments may be made to vendors that violate COI policies.

A formal process does not currently exist that ensures that Purchasing is aware of identified research and non-research COIs.

COIs are currently tracked and managed by the ORC and the Office of Institutional Compliance, Equity, and Title IX Initiatives. Providing Purchasing with access to this information as part of their workflow would ensure they are aware of current disclosed COIs and management plans.

Recommendation: The ORC and Purchasing should work together to create a process that ensures Purchasing is aware of COIs as part of their workflow.

Management's Action Plan: Purchasing and Conflict of Interest will collaborate on the development of a procedure and internal controls to identify, evaluate, and mitigate conflicts of interest related to procurement activities. Both offices agree on the necessity of these internal controls, but to date have been unable to finalize a shared compliance plan.

- Publish procedure that identifies institutional Purchasing responsibilities that may be affected by COIC, and school/department/unit purchasing responsibilities that may be affected by COIC
- Identify employees with purchasing responsibilities that require annual COIC disclosure
- Publish definition of when a conflict of interest results in noncompliance with purchasing policies and the corresponding enforcement mechanisms
- Implement information sharing channels between Purchasing and Conflict of Interest
  - Report employee relationships with vendors to Purchasing
  - Report related vendor activities to Conflict of Interest
  - Collaborate on actions taken to avoid, reduce and/or mitigation conflicts of interest
- Create training and guidelines for employees with covered purchasing responsibilities

Person Responsible for Implementation: Conor Wakeman, Assistant Director, Office of Research Integrity and Outreach

Estimated Date of Implementation: August 31, 2021

Appendix A: Methodology

Background

Conflicts of interest occur when an employee or their immediate family member has personal finances, investments, relationships, or outside activities could create either a real or perceived bias in the performance of their research and/or duties at UT Dallas and/or create a financial or personal gain. When not properly managed, risks such as fraud, abuse, corruption, and scientific misconduct are increased.

At UT Dallas, conflicts of interest and commitment are governed by various federal, UT System, and institutional policies and procedures[2] and are handled by two departments: the Office of Research Compliance (ORC) that handles research conflicts, and the Office of Institutional Compliance, Equity, and Title IX Initiatives (ICET) that handles non-research conflicts. The organization structure is depicted below.

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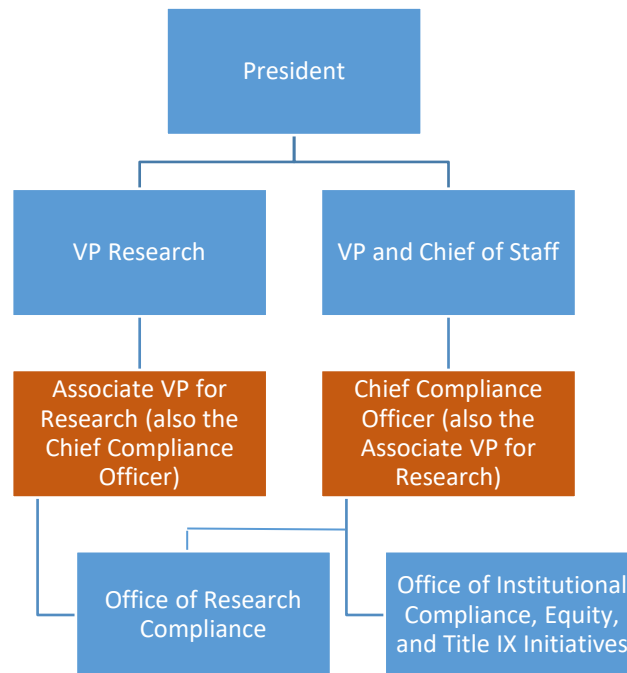
[2] UTDP1100, Conflicts of Interest and Conflicts of Commitment; UTDPP1101, Outside Activity Policy for Executives; UTDPP1102, Outside Activity Policy for Employees;

Controls and Strengths

Our audit work indicated the following controls currently exist:

1. The team for approving COIs is extremely knowledgeable about the process and cognizant of the critical role that they have in protecting the University.
2. Internal training, both through conferences and through working with more experienced personnel, is conducted for new employees within ORC to ensure that reviewers have an understanding of COI.
3. The Research Integrity Committee is utilized to screen management plans for COIs that may affect the integrity of a research project.
4. The new portal maintained by ORC for disclosing COIs and documenting management plans provides much more streamlined documentation of activities.

Scope and Procedures

The scope of this audit was FY20-21 and our fieldwork concluded on March 25, 2021. To satisfy our objectives, we performed the following:

*   Reviewed training required by the university, conducted by the ORC and ICET for its internal members, and for department heads.
*   Interviewed key personnel, including Purchasing, and reviewed processes for establishing and maintaining communication between departments handling COIs and Purchasing.
*   Reviewed a sample of management plans and COIs with required actions from ORC and ICET. Discussed details around management plans, as well as policies and procedures that govern responses to violations with OCR and ICET.
*   Reviewed processes for granting administrative access to ORC COI portal.
*   Reviewed policies that govern unreported COIs and violation of COI policies.
*   Interviewed employees from Sponsored Projects on processes for reporting foreign funding, as well as the action plan for reducing foreign influence related to COI.

We conducted our examination in conformance with the Texas Internal Auditing Act in conformance with the guidelines set forth in The Institute of Internal Auditor's *International Standards for the Professional Practice of Internal Auditing*. The *Standards* are statements of core requirements for the professional practice of internal auditing.

Follow-up Procedures

Though management is responsible for implementing the course of action outlined in the response, we will follow up on the status of implementation subsequent to the anticipated implementation dates. Requests for extension to the implementation dates may require approval from the UT Dallas Audit Committee. This process will help enhance accountability and ensure that timely action is taken to address the observations.

Thank You

We appreciate the courtesies and considerations extended to us from the Offices of Research; Institutional Compliance, Equity, and Title IX Initiatives; and Purchasing during our engagement. Please let me know if you have any questions or comments regarding this audit.

Toni Stephens, CPA, CIA, CRMA
Chief Audit Executive

Appendix B: Report Distribution

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<tr><td colspan="2">

Members of the UT Dallas Institutional Audit Committee

External Members
- Ms. Lisa Choate, Chair
- Mr. Gurshaman Baweja
- Mr. John Cullins
- Mr. Bill Keffler
- Ms. Julie Knecht

UT Dallas Members
- Dr. Richard Benson, President
- Mr. Rafael Martin, Vice President and Chief of Staff
- Dr. Kyle Edgington, Vice President for Development and Alumni Relations
- Mr. Frank Feagans, Vice President and Chief Information Officer
- Dr. Gene Fitch, Vice President for Student Affairs
- Dr. Calvin Jamison, Vice President for Facilities and Economic Development
- Dr. Inga Musselman, Provost and Vice President for Academic Affairs
- Mr. Terry Pankratz, Vice President for Budget and Finance
- Mr. Timothy Shaw, University Attorney, ex-officio

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UT Dallas Responsible Parties

Responsible Vice President (VP)
- Dr. Joseph Pancrazio, Vice President for Research
- Ms. Sanaz Okhovat, Chief Compliance Officer

Persons Responsible for Implementing Recommendations
- Mr. Conor Wakeman, Assistant Director, Office of Research Integrity and Outreach

Other Relevant Persons
- Ms. Lori Matthews, Director of Purchasing (recommendation #4, submitted in separate memo)

External Agencies

The University of Texas System
- System Audit Office

State of Texas Agencies[3]
- Legislative Budget Board
- Governor's Office
- State Auditor's Office

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Engagement Team
Project Manager: Rob Hopkins, CFE, Audit Manager
Project Leader: Chris Robinette, Internal Auditor III
Staff: Josh Bennett, Internal Auditor II

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[3] Per Texas Internal Auditing Act Requirements

Appendix C: Definition of Risks

Risk Level	Definition
Priority	High probability of occurrence that would significantly impact UT System and/or UT Dallas. Reported to UT System Audit, Compliance, and Risk Management Committee (ACRMC). Priority findings reported to the ACRMC are defined as "*an issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.*"
High	Risks are considered to be substantially undesirable and pose a moderate to significant level of exposure to UT Dallas operations. Without appropriate controls, the risk will happen on a consistent basis.
Medium	The risks are considered to be undesirable and could moderately expose UT Dallas. Without appropriate controls, the risk will occur some of the time.
Low	Low probability of various risk factors occurring. Even with no controls, the exposure to UT Dallas will be minimal.