



State of New Mexico Office of the State Auditor

November 18, 2024

Western New Mexico University
1000 W. College Ave.
Silver City, NM 88061

Sent via Electronic Mail Only:

Dr. Mary E. Hotvedt, President, Board of Regents
Western New Mexico University
Email: maryhotvedt@aol.com

RE: Letter of Concern
Western New Mexico University Procurement and Travel Expenditures –
Waste of Public Resources

Dear President Hotvedt,

The Office of the State Auditor (“OSA”) has conducted a fact-finding examination into several allegations asserting that Western New Mexico University (“WNMU” or “the University”) engaged in the waste¹ of public funds through:

- excessive or extravagant domestic and international travel and lodging for the University staff, leadership, and governance,
- improper use of procurement and university credit cards (P-card), including the procuring of high-end custom furnishings for the University President’s official residence; and,
- providing expense accounts and purchasing cards to a non-University employee.

These allegations had been publicly reported in media accounts, discussed during university leadership testimony before State legislative bodies, and included in constituent complaints submitted to the OSA. Related information was also provided to the OSA by State oversight agencies.

The OSA’s examination was conducted by its Special Investigations Division (SID). SID examined the University’s expenditures related to procurement and travel during the period of July 1, 2018, through June 30, 2023 (“the period”), including specific examples noted within the allegations. Our examination reviewed the University’s travel and per diem processes and

¹ As defined in the Audit Rule Section 2.2.2.7W NMAC, “[w]aste includes, but is not limited to, the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse. Rather waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight. Waste does not necessarily involve fraud or illegal acts. However, waste may be an indication of internal control weakness, non-compliance, fraud, or illegal acts.”

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expenditures during the period and tested them for compliance with established internal controls designed to aid the University in complying with laws, regulations, and university policies, promoting accountability, and preventing fraud. Internal controls, when properly designed and implemented, help improve operational efficiency, ensure budgets are adhered to, policies are followed, and ensure proper governance.

Our examination of the travel and procurement expenditures found a concerning lack of compliance with established university policies during the period. (*See* Enclosure) Noncompliance with the provisions of university policy negatively impacts the effectiveness of any comprehensive and rigorous review and approval process the University's management and governing body might exercise over expenditures of public funds by the University for travel requests, travel reimbursements, and purchase card usage.

Our examination found that the travel requests and travel reimbursements provided by WNMU for the University President and members of the Board of Regents during the period, were consistently noncompliant with university policies. They were found to be lacking required documentation, were incomplete or erroneous, were prepared, signed, and submitted by someone other than the designated traveler, or exceeded approved reimbursement amounts, among other noncompliance. Our examination of the use of the University's credit card as part of the University President's and Board of Regents' travel during the period noted several transactions where disallowed items such as meals, alcohol, and hotel room service, were purchased. Further, our examination of travel documentation in instances of university staff and faculty travel identified similar noncompliance with university policies, as noted herein.

Our examination found that the use of a university credit card to purchase high-end custom furniture by the University President, was contrary to university policies regarding use of credit cards to purchase tangible goods of \$1500 or more, and the purchase of furniture with a value of \$1000 or higher requiring a purchase order or requisition. Further, it was found that exception to, or the deviation from university policy to allow these purchases, had not been approved by the Board of Regents.

The misuse of the P-card by the University's President identified as part of our examination, was contrary to both established university policy and the contractual agreement laid out in the President's employment contract with the University wherein contract language specifies he would, "...at all times faithfully, industriously, and with the best use of his experience, ability and talent, perform all of the duties required pursuant to the terms of this Employment Agreement and the University's official policies, and assigned by the Board...". Additionally, the University's leadership appears to be in violation of its own Code of Conduct, which in part states, "...employees of the University shall maintain the highest standards of business ethics in transactions with the University, the State, Federal, and local governments, and with the public...".

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There is an appearance of management overreach and a lack of a strong “tone at the top”² at the University. Without the proper example being set by the University’s management and Board, which is fundamental to an effective internal control system, any disincentives for university employees to engage in inappropriate or extravagant travel spending, are limited or removed. Further, University management and Board failed to uphold their fiduciary responsibilities, by neglecting to adhere to the corresponding elements as established in the University’s policies, procedures, and rules regarding travel, per diem, and procurement.

The governing body’s lack of proper oversight and management’s non-compliance with policies and procedures, resulted in the waste of public funds and resources entrusted to the university. According to the Board of Regents Manual, “...management and control of the University are vested in the Regents...”. Further, “...all decisions and actions of the President must be in accordance with general policies approved by the Board of Regents and are subject to the right of the Board to intervene...”.

The OSA is encouraged that since these concerns were first publicly revealed, WNMU’s governing body and management have taken proactive steps to strengthen the University’s internal control structure as well as engage in an external forensic special audit to further review these and related issues.

Complacency or indifference to oversight not only exposes the University’s governing body and leadership to the threat of further waste, but it also opens the door for potential fraudulent acts to occur, each of which negatively impacts the university and its finances.

The OSA recommends that the University incorporate, if not having already done so, an internal review of cost disparities, cost control measures, and adequate documentation into its travel approval, travel reimbursement, and use of P-card processes, like those requirements necessary for any other expenditure of public funds for the purchase of goods or services. This will help address and limit any future potential waste of public funds by WNMU.

Finally, without strong and committed leadership to reinforce the internal control system, the university remains at significant risk for fraud, waste, and abuse. Effective governance is crucial in setting the tone at the top, embracing accountability and transparency, and ensuring that all employees understand the importance of these controls and adhere to them diligently. Without this, even the best policies and procedures may fail to prevent waste of public funds.

² As defined in the Government Audit Standards for Internal Control in the Federal Government Green Book, Section 1.03, “The oversight body and management lead by an example that demonstrates the organization’s values, philosophy, and operating style. The oversight body and management set the tone at the top and throughout the organization by their example, which is fundamental to an effective internal control system.” Section 1.05, “Tone at the top can be either a driver...or a barrier to internal control. Without a strong tone at the top to support an internal control system, the entity’s risk identification may be incomplete, risk responses may be inappropriate, control activities may not be appropriately designed or implemented, information and communication may falter, and results of monitoring may not be understood or acted upon to remediate deficiencies.”

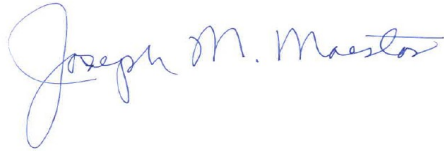
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Sincerely,



Joseph M. Maestas, PE, CFE

New Mexico State Auditor

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Enclosure: WNMU Noncompliance

File #: NMOSA-2024-12-04-128

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WNMU Noncompliance

TRAVEL

As part of our examination, the OSA requested and analyzed all supporting documentation maintained by the university related to the university President's and the members of the University's Board of Regents ("Regents"), domestic and international travel during the period. WNMU provided the OSA with documentation for a total of 138 instances of travel by the university President equaling an expenditure of \$140,610.75, and documentation for a total of 264 instances of travel by the Regents equaling an expenditure of \$73,651.16, during the period. Examples of the university President's and Regent's travel found to be noncompliant with university policies and rules include the following observations:

- Travel was undertaken by the President *without* the proper travel request submission and subsequent oversight pre-approval by governance.
- Travel was undertaken by Regents *without* travel requests or submitted untimely and without justification for good cause.
- Travel requests for the President were either *not submitted* by the President for governance review/approval in a timely manner prior to travelling or were submitted *after* the travel began.
- Travel was undertaken by Regents utilizing *incomplete* and/or *unauthorized/unapproved* travel requests and travel vouchers.
- Travel vouchers for the President's travel were not submitted in a timely manner and were often submitted weeks or months *after* the travel ended.
- Travel undertaken by Regents where purchase orders were dated *after* travel dates and missing purchasing office approval.
- Travel reimbursements requested by the President or Regents and subsequently paid by the university, either *exceeded* the total amounts reflected in the respective purchase orders or *were not listed* on the purchase order.
- Travel undertaken by the President was *missing* required documentation for mileage and/or conference registrations.
- *Incomplete* or *incorrectly calculated* travel vouchers or vouchers *missing* documentation submitted by Regents for travel.
- Regent travel vouchers having *differing* travel dates than their associated travel requests and instances of hotel cancellations resulting in loss of refunds, justified without good cause.
- Travel requests *not* completed and submitted by appropriate requestor (university President) but delegated to another university employee.
- Travel undertaken by the university President, and paid for by the university, appearing to be *unrelated to official university business*. These included trips related to other non-educational organizations which the President is affiliated, such as the Finca Vigia Foundation, dedicated to saving author Ernest Hemingway's Cuban legacy, and for conferences and events where his spouse was a guest speaker such as the Simmons Leadership Conference, established for women's leadership and business.

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- International travel taken by the university President and/or Regents *lacking any documentation* articulating the business need, purpose, justification, or authority for the travel.
- *Travel upgrades* for seating and amenities on international and domestic travel taken by the university President and/or Regents *lacking any documentation* articulating the business need or purpose justification or authority for the upgrades.
- Lodging upgrades and meal expenditures on international and domestic travel taken by the university President and/or Regents *lacking any documentation* articulating the business need or purpose justification or authority for the upgrades.

The OSA also included as part of its examination, a complaint to review travel documentation for university staff and faculty attending out-of-state programs at the Ritz Carlton Leadership Center in Rancho Mirage, California. According to our review, the university spent a total of \$25,578.26 for university staff to travel to, and attend in person, “A Culture of Excellence-Building Success from Within”, a program designed to share The Ritz-Carlton’s, “best practices on how to activate and sustain a culture where valued and empowered employees own the customer experience”, and “Brand Differentiating Service-Delivering an Elevated Experience”, where attendees “learn(d) how our (The Ritz-Carlton) time-tested methodologies foster a culture of personalized service and genuine care”.

SID noted as part of their examination, this travel expenditure could have been reduced or eliminated, as both programs were also available virtually from the vendor, at a potentially lower price point than the on-site cost, and without the need for out-of-state travel.

Examples of university staff and faculty travel which were found to be noncompliant with university policies and rules include the following observations:

- Travel vouchers were either *not properly approved* or *did not demonstrate* the proper approvals.
- Travel vouchers were either *missing* or *were not provided* by the university.
- Travel requests and travel vouchers *were not submitted* in a timely manner after travel had ended.
- Travel undertaken where required mileage documentation was *missing*.
- Travel undertaken where documentation of conference registrations was *missing*.

PROCUREMENT

Based on the concerns previously noted, the OSA also examined procurement and use of purchase cards (P-card) by the university President and Regents during the period.

The OSA requested all documentation related to specific high end furniture purchases as well as reviewing related P-card purchases made during the above noted instances of travel made by the President. WNMU provided the OSA with documentation for a total of 91 instances of P-card use by the university President equaling a total expenditure of \$149,264.08, during that time.

Examples of university procurement and use of purchase cards which were found to be noncompliant university policies and rules include the following observations:

- The procurement of high-end customized furniture for the university President’s official residence was in contradiction of established university policies regarding use of credit cards to purchase tangible goods of \$1500 or more, and the purchase of furniture with a

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value of \$1000 or higher requiring a purchase order or requisition. The furniture was purchased utilizing a P-card issued to the President, and at least one purchase, totaling over \$17,000, was verbally approved by the Chief Procurement Officer on the same day of the purchase, without a required purchase order or requisition in place as required by university policy. It was noted that any exception to, or the deviation from university policy to allow these purchases, had not been approved by the Board of Regents. Further, it was noted that two additional purchases were made from the same vendor for additional furniture the month following the initial purchase again without a required purchase order or requisition in place. The total \$24,740 combined purchase cost for the furniture exceeded the University's small purchase \$20,000 threshold requiring three identical written quotes from three different vendors. The structuring of related purchases in this manner, gives rise to the appearance these purchases were conducted separately to not require the University President to obtain three written quotes for the furniture as required by university policy. Such structuring would further be in violation of the Procurement Code, §13-1-28 through §13-1-199 NMSA 1978.

- Several instances where P-card transactions included the purchase of alcohol, food or room service during the university President's travel. The university's P-card agreement disallows the purchase of these items, as such purchases are paid for using public monies. However, it was noted in our examination that the university sought and was subsequently reimbursed for the disallowed purchases with private funds by the university's Foundation. By allowing these transactions to occur in this manner, the University appears to have affirmatively disregarded its policy and allowed the initial use of public university funds rather than private foundation funds for the purchase of goods or services unallowed per the P-card agreement.
- A P-card was issued to, and used by, the President's spouse who is a non-employee of the university. The University's purchasing card holder agreement applies to university employees, requires approval of their supervisor, and any violation of the agreement references sanctions which can only be enforced on university employees.