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May 9, 2016

Lynne Saxton, Director
Oregon Health Authority
500 Summer Street NE, E-20
Salem, OR 97301

Dear Ms. Saxton:

We received a hotline call alleging a conflict of interest related to a grant that the Oregon Health Authority (OHA) awarded to Portland State University (PSU) for evaluation of the Patient-Centered Primary Care Home program (PCPCH). Specific allegations are discussed below in the *Results* section.

Background

In June 2004, OHA's Office of Health Policy and Research entered into an intergovernmental agreement with Portland State University (PSU). This master agreement established a partnership between OHA's Office of Health Policy and Research (under which PCPCH is a program) and PSU to create a program of research and policy analysis. The purpose was to provide research, teaching, and internship opportunities. One of the goals of the partnership was to use PSU's expertise in program evaluation and policy analysis to provide a cost-effective means by which OHA's Office of Health Policy and Research can provide for quality assurance and continual improvement of its programs.

In 2014, the master agreement was replaced with a second master agreement that has essentially the same purpose. OHA requests services under this agreement through the issuance of work orders. Each work order contract specifies the required services, other identified requirements, and anticipated compensation.

In July 2012, OHA's Office of Health Policy and Research authorized a work order contract for the evaluation of the Patient-Centered Primary Care Home Model. Subsequent amendments to the work order contract occurred in January 2013, October 2013, June 2014, and October 2014. These amendments extended end dates, contract amounts, and scope of work. When we reviewed the contract documents in April 2015, the not-to-exceed authorized amount of the contract was \$850,640.

Methodology

To address this hotline call, we obtained and reviewed copies of the master agreements, work order contracts, invoices, and other pertinent documentation from OHA. We reviewed relevant Oregon statutes and OHA policies. We discussed the allegations with the Director of Internal Audit at PSU and reviewed website information for PSU's Health Systems and Policy department. We interviewed the director of the PCPCH program. We also referred the allegations to OHA's Chief Internal Auditor for review by the Human Resources office.

Because we limited our work to a review of the specific allegations, we were not required to and did not conduct the investigation in accordance with generally accepted government

auditing standards. Staff from our office, who were not involved with the investigation, reviewed this communication for accuracy, checking facts against supporting evidence.

Results

The specific allegations submitted in the initial complaint included the following:

1. The Director of the PCPCH program, Nicole Merrithew, is working on her doctorate degree under Dr. Sherril Gelmon, who is the Director of the PhD program in Health Systems and Policy at PSU.
2. Ms. Merrithew, without a committee decision to do so, in September 2014 gave a \$400,000 grant to Dr. Sherril Gelmon, Professor of Public Health, PSU, to evaluate the PCPCH program.
3. The grant was added to an existing contract so it would be a no-bid contract.
4. Ms. Merrithew receives 100% salary from OHA, but uses 20% of her time to work on her PhD.

We found that some of the specific statements were true, but needed to be considered in context of relevant state laws, OHA's processes, and Ms. Merrithew's role as director of the PCPCH program.¹ Ms. Merrithew is enrolled in the PhD program at PSU in the Health Systems and Policy department, and Dr. Sherril Gelmon is the director of that department.

Ms. Merrithew requested an amendment of approximately \$400,000 to the existing work order contract with PSU increasing the contract from \$452,169 to \$850,640; Ramona Rodamaker, the Business Operations Manager, approved the request. According to Ms. Merrithew, the decision to amend the contract was made in collaboration with others in OHA. The contract was amended without a competitive process since intergovernmental agreements are exempt from a competitive procurement process. Additionally, Ms. Merrithew approved some of the contract invoices for payment; final payment authorization was provided by Ms. Rodamaker. Although the contract amendment was handled according to OHA's established process, we believe this transaction was at less than arm's length and may have created some risk for OHA.

According to information we received from OHA's Human Resources office and Ms. Merrithew, she works a flexible schedule around her school schedule and does not use state time to work on her PhD.

As an other issue, we found the invoices submitted by PSU to OHA were not specific enough to determine what work was performed and by whom.

Allegation 1

PSU's website shows Ms. Merrithew is a current student in the Health Systems and Policy PhD program. Dr. Sherril Gelmon is the Director and Professor of Public Health and the Director of the PhD program in Health Systems and Policy at PSU. The Director of Internal Audit at PSU told us Ms. Merrithew was not serving as a graduate assistant, and did not receive any financial assistance or tuition reductions to attend PSU.

Ms. Merrithew said Dr. Gelmon is not her advisor, but indicated Dr. Gelmon, as head of the PhD program, meets with all students to get updates on how their program is going.

Ms. Merrithew began her PhD program at PSU in fall 2014.

¹ On March 11, 2016, Ms. Merrithew resigned from her position with OHA.

Allegations 2 and 3

In October 2014, OHA's Office of Health Policy and Research amended an established work order contract to extend the anticipated due dates for work specified in the contract and added a component for evaluating PCPCH implementation. This amendment added \$398,471 to the work order contract. Intergovernmental agreements are exempt from public contracting rules; therefore, an amendment to a work order contract under a master intergovernmental agreement does not have to be a public procurement, bid, or a committee-made decision.

Based on available contract documentation, Ms. Merrithew requested the amendment. The documentation does not indicate when it was requested, but the Business Operations Manager approved the request on September 22, 2014. OHA documentation indicates the Business Operations Manager had the delegated signature authorization to authorize contracts that exceeded the amount requested by the amendment. The work order contract amendment was executed on October 8, 2014. During a discussion we had with Ms. Merrithew, she stated at her level she could initiate a request. She also indicated the decision to amend the contract was made in collaboration with others in OHA, including her supervisor.

Allegation 4

OHA's Human Resources office reviewed the allegation of conflict of interest and found that Ms. Merrithew should have filed a notice of potential conflict of interest based on her role, but determined there was no conflict with her role as an employee and her role at PSU as a student. According to the Human Resources office, Ms. Merrithew's role at OHA was that of a work order coordinator.

Furthermore, the Human Resources office indicated that Ms. Merrithew works a flexible work schedule around her school schedule and does not use state time to work on her PhD. Ms. Merrithew told us she keeps her hours for work and school separated. Any PhD assignment is done on her own time. She is taking one class at a time, weekends and night. Some papers for her PhD are related to her work program, so there is some subject matter overlap. However, she stated she has been clear with staff and faculty about the separate relationship between work and school.

Other Issue

OHA's process for approving invoices involves the Business Office emailing the appropriate manager to have them review the invoice and approve payment via email. Many of the invoices we reviewed contained a handwritten note showing, "approved for payment by Nicole Merrithew" and a date. Ms. Merrithew stated she approves invoices for payment. She explained the process included the following steps:

- Invoices are submitted electronically from the contractor to the administrator of the work order at the office administrator level, Brenda Lindquestor.
- Ms. Lindquestor emails the invoice to the appropriate program contact, in this case, Ms. Merrithew.
- Ms. Merrithew has staff responsible for specific deliverables review the invoice.
- Ms. Merrithew notifies Ms. Lindquestor when the invoice is approved for payment.

The invoices we reviewed also contained a "Payment Request Coding and Approval" page with the Business Operations Manager's signature. OHA management indicated the Business Operations Manager had final payment approval authority for the invoices.

The invoices consisted of one page listing categories of costs, such as payroll, miscellaneous services and supplies, travel, subcontracts, and overhead. The cost categories coincided with those listed in the Project Period Budget included in the work order contract. However, the invoices did not provide specifics as to what each category covered or who performed the work.

Conclusions

OHA's employee handbook advises employees to refrain from any activity or conduct that jeopardizes their ability to be fair and impartial. While OHA determined a conflict of interest did not exist in this case, we believe this contract amendment between OHA and PSU was not at arm's length. Ms. Merrithew's role as director of the PCPCH program, including requesting contract amendments and approving invoices, coupled with her role as a PhD student at PSU did not foster a fully independent business arrangement.

We recommend OHA management:

- ensure requests for work order amendments are made by managers independent from PSU;
- provide for documented independent reviews and approvals of invoices; and
- require invoices to provide details for cost categories to include what work was performed and who performed it.

Pursuant to ORS 177.180(3)(a), we will provide a copy of this communication to the Oregon Government Ethics Commission.

We appreciate your staff's time and cooperation during this investigation. If you have any questions, please contact Dale Bond, Audit Manager, at (503) 986-2351.

Sincerely,

Office of the Secretary of State, Audits Division

Cc: Cheryl A. Miller, OHA Human Resources Director
Mark Fairbanks, OHA Chief Financial Officer
David Lyda, Chief Audit Officer

May 10, 2016

Mary Wenger, Interim Director
Oregon Audits Division
255 Capitol Street N.E., Suite 500
Salem, OR 97310

Ms. Wenger,

Thank you for your May 9, 2016 letter regarding the hotline call alleging a conflict of interest related to an amendment of an agreement between the Oregon Health Authority (OHA) and Portland State University (PSU) for evaluation of the Patient-Centered Primary Care Home program (PCPCH).

While we agree that the circumstances related to this matter could create a perception of a conflict of interest, and that these circumstances should have been communicated sooner by staff, we disagree with your assessment that OHA and PSU do not have an arm's length agreement. As mentioned in the letter, we have determined that there was no conflict with Ms. Merrithew's role as an employee and her role at PSU as a student. Ms. Merrithew's role was that of the work order coordinator. She had no authority to independently enter into agreements or commit funds on behalf of OHA. Agreements were in place with PSU prior to Ms. Merrithew being hired into her former position.

We agree with the letter's recommendation that the invoices we receive from PSU for services should contain additional details on the work performed. Our Health Policy and Analytics Division will address this recommendation directly with PSU.

Thank you again for your letter. We appreciate the time spent by your staff in completing this investigation.

Sincerely,



Lynne Saxton
Director