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UAP 6010: University Business Activities

University of New Mexico

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University Business Policies and Procedures Manual

6010

UNIVERSITY BUSINESS ACTIVITIES

Effective Date: July 15, 1993

Revised: 08/01/06

Subject to Change Without Notice

Authorized by Regents' Policy 7.6 "University Enterprise Business Activities"

1. General

The University of New Mexico has a rich heritage of providing instruction, research, and public service. The University has developed an integrated and balanced group of educational programs of excellence for the postsecondary student with multiple levels of entry and exit. Additionally, it develops and maintains programs of research, scholarship, and cultural innovation that enhance these educational programs and the disciplines within them. Finally, it develops and maintains programs of direct public service that are derived from its educational and research efforts.

As an extension of its educational service mission, the University offers a variety of programs and services directly for general public consumption that are derivatives of its instructional and research activities. Furthermore, the University has organized campus service activities that directly support the primary instructional and research mission. In some instances, these campus service activities are also available to the general public.

It may be desirable to organize some activities as separate and distinct business cost centers and to charge fees for providing goods and services that enhance, promote, or support the University's mission and meet the needs of the students, faculty, staff, and patients. Some of these business activities may also be available to the general public. To ensure that The University of New Mexico does not become involved in activities and endeavors that are outside the University's mission, all business activities must be related to or support the University's mission, as stated above, and are subject to the following restrictions. Exception to this policy may be authorized by the President of the University when it is determined that an exception is clearly in the best interests of the University and the public.

2. Sales to the General Public

Business activities that sell goods or services to the general public should meet *one* or more of the conditions listed below. For the purpose of this policy "general public" is defined as all individuals or entities other than UNM students, UNM faculty, UNM staff, UNM patients, and governmental entities.

- 2.1. The activity is substantially related to the University's education, research, or public service mission.
- 2.2. The activity provides a public service derived from our educational or research efforts.
- 2.3. The activity sponsors or provides facilities for recreational, cultural, or athletic events.

2.4. The activity provides health services or medical treatment; public service radio and TV broadcasting; or events or functions whose principal purpose is the improvement of relations between the University of New Mexico and the general public.

2.5. The sale of donated goods or services are related to fund raising activities.

2.6. General public consumption of the good or service is incidental to the ordinary and authorized function of a campus entity, for example, sales by the Bookstore or Student Union to campus visitors.

2.7. The equivalent good or service is not available in the local area or otherwise easily accessible to the general public.

3. Oversight and Review

University business activities may be established and carried on only when they comply with this policy. Deans, Directors, and Department Heads responsible for University business activities must ensure that all proposed and existing activities involving the sale of goods or services for fees meet the above criteria.

The Executive Vice President for Administration is responsible for the oversight and review of all University business activities. University business activities shall be reviewed periodically for compliance with this policy and applicable tax laws and regulations. The University is required by law to identify all business activities subject to unrelated business income tax (as defined by the Internal Revenue Code) and/or New Mexico governmental gross receipts tax. These taxes are discussed in **Section 4.** herein.

Due to the sensitive nature of perceived "unfair competition" complaints, all such complaints should be referred to the Executive Vice President for Administration. Depending on the nature of the complaint the Vice President may decide to convene a review board composed of University staff or faculty and representatives from the business community.

4. Taxation Issues

The University of New Mexico will comply with applicable laws and regulations concerning University business activities.

4.1. Unrelated Business Income Tax

Internal Revenue Code Sections 511, 512, and 513 impose tax on business activities which are unrelated to the University's tax exempt purpose. An activity is considered unrelated if the activity is a "trade or business", is regularly carried on, and is *not* substantially related to the University's tax exempt purposes. The Internal Revenue Code provides that the exempt purposes of state colleges and universities include all of the purposes and functions described in Code Section 501(c)(3) and therefore include among other things, activities which are charitable, scientific, testing for public safety, literary, or educational.

In addition to Internal Revenue Code and Regulations, the Internal Revenue Service uses audit findings, revenue rulings and tax court cases to further define activities subject to unrelated business income tax. The type of business taking place is the key factor in

determining whether an activity is subject to tax, not the use of the funds generated. Deans, Directors, and Department Heads responsible for University business activities should contact the Financial Services' Office for a determination on the taxability of their business activity.

If the University Associate Vice President for Financial Services determines an activity to be an unrelated business activity, the revenues and expenses associated with that activity must be reported to the Internal Revenue Service (IRS) along with payment of the applicable income tax. The Financial Services Office is responsible for filing the income tax return with the IRS. The tax liability and tax return preparation costs will be charged on a pro rata basis to the department conducting the unrelated business activity. For more information regarding unrelated business income, contact the University Taxation Department or the Financial Services' Office.

4.2. New Mexico Governmental Gross Receipts Tax

Effective July 1, 1991, Senate Bill 315 imposes a tax of five percent (5%) on receipts from the sale of tangible personal property from facilities open to the general public, the performance of or admissions to recreational, athletic, or entertainment services or events in facilities open to the general public (Section 7-9-3.2, NMSA 1978). Dean, Directors, and Department Heads responsible for University business activities should contact the Financial Services' Office for a determination on the taxability of their business activity.

The Associate Vice President for Financial Services will determine which receipts are subject to New Mexico governmental gross receipts tax. The tax liability and tax return preparation costs will be charged on a pro rata basis to the department conducting the business activity subject to the tax. For more information regarding governmental gross receipts tax, contact the University Taxation Department or the Financial Services' Office.

**Comments may be sent to UBPPM@UNM.edu
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