The New
University of Louisville Foundation

September 2017

UNIVERSITY of LOUISVILLE
FOUNDATION

18 Months of Intense Scrutiny

- Concerned about a lack of transparency and questionable financial practices, the Board of Trustees requested both a state audit and forensic investigation of the University of Louisville Foundation ("ULF").
- The State Audit began in June 2015, the Office of the Auditor of Public Accounts released its December 2016 report identifying 7 key governance issues and 14 recommendations related to ULF.
- Alvarez & Marsal was hired in October 2016 to conduct a forensic investigation into the financial practices of ULF. In its June 2017 report, A&M identified 5 key financial issues and 13 recommendations. Upon receipt of this report, the ULF Board created a special committee to, among other things, develop, review and oversee the implementation of needed policy, bylaw and process changes.

18 Months of Intense Scrutiny (continued)

- Since late 2016, ULF has been undertaking a transformation designed to implement best practices and restore donor and stakeholder confidence.
- ULF became a member of and hired a consultant from the Association of Governing Boards ("AGB") to assist with this process.
- New ULF management has heard and acted upon the expectations of new boards at ULF, the Real Estate Foundation and University of Louisville and a special committee created to address the A&M report, that transparency, integrity and a commitment to ensuring the long term sustainability of the endowment is paramount. And further, that activities of the Foundation shall be to directly support the University in its mission.

Lessons From the Red Cross

"I have an almost complete disregard of precedent, and a faith in the possibility of something better. It irritates me to be told how things have always been done. I defy the tyranny of precedent. I go for anything new that might improve the past."
— Clara Barton, The Story Of My Childhood

"The surest test of discipline is it's absence."
— Clara Barton

Key Transformative Changes

THEN	**NOW**
Long Term Board	Almost Entirely New Board (with orientation)
Outdated Bylaws	Revised Bylaws
UofL President=ULF President	UofL President cannot be ULF President
UofL President and Chief of Staff=Mgmt	New independent executive
Long Term Law & Audit Firms	New Law & Audit Firms
Limited Formal Polices	New Policies; industry best practices
Unclear Division of Roles with University	MOU with University
Delayed Open Records Requests	Formal Process to Timely Meet Obligations
Resisted Transparency; few questions	Fully Transparent; fully engaged Board
Broad Board Resolutions	Specific Board Resolutions
ULF compensates UofL employees	ULF doesn't compensate UofL employees
Driver of Key Campus Decisions and Projects	Supporter of University-Led Initiatives
General operating budget	Line item budget with budget to actuals

Foundation Action Taken

- Key Governance Changes
    1. New Board of Directors
    2. Create ad-hoc Governance Committee
        a. Negotiated MOU with University

Memorandum of Understanding

Purpose: To memorialize the roles and responsibilities of and between the University of Louisville and ULF.

Successfully negotiated through collaborative process, the Memorandum of Understanding (MOU) has served as a catalyst for a renewed constructive, symbiotic relationship between the institutions. It establishes reporting and communications requirements and establishes an effective framework to ensure that past problems are not repeated.

Since execution, the parties have been able to work effectively on important matters including a new compliance reporting process to ensure money is only spent consistent with donor intent, terms for the University of Louisville Real Estate Foundation's ("ULREF") repayment of its outstanding loan to the University and ensuring that spending is disciplined.

Foundation Actions Taken (continued)

- Key Governance Changes

    3. Create ad-hoc Governance Committee (continued)

        b. Revised Bylaws (most recent pending Board approval Q2)

            i. Key change includes prohibition of university president serving as foundation president

        c. Committee Charters developed and being reviewed (Q2)

    4. Established a compliance process to ensure funding to the University is consistent with donor intent.

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Foundation Actions Taken (continued)

- Key Governance Changes

5. Formed special committee to design and implement A&M recommendations and consider litigation issues
6. Developed a more robust conflict of interest policy (Q2)
7. Changed auditors and law firms
8. Joined AGB and embraced best practices for foundations

Foundation Actions Taken (continued)

- Key Governance Changes
  9. Simplified endowment pool to eliminate carryover and enhance predictability of annual funding
  10. Enhanced compliance by creating a charitable gift library with access for the University and an accompanying attestation provision.
  11. Developed 15 Key Responsive and additional Policies *

* All policies to be memorialized in MOU, Bylaws or P&P manual

Foundation Actions Taken (continued)

The Foundation has taken actions to address, through policy, MOU and practice, every issue raised by the State Audit and A&M investigation (except creating an internal audit function). It has also instituted reforms that go beyond those reports which are consistent with current University Foundation best practices.

Foundation Actions

- ★ Plan to partner with the Board of Trustees at the University of Louisville on how to best implement these and any additional suggestions they may have to enhance ULF generally and specifically.

A&M Report
Key Issues Identified and Recommendations

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Unrecorded Endowment Losses: UHI Line of Credit

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. UHI loaned ULF Subsidiaries $52.2 million of Endowment funds the ULF Subsidiaries will likely not be able to repay.	ULF should provide the Board and finance committee regular and detailed updates on the status of the UHI LOC. ULF should not carry this as an asset. ULF should re-assess the likelihood of repayment.	The ULF/ULREF determined, and demonstrated to its Boards of Directors, that it can pay ULF back the money owed under the UHI LOC. This payment, from the ULREF, will be funded primarily from TIF revenue over 15 years. Taking into consideration the present value of money, ULF has determined it prudent to adjust a portion of the UHI LOC. In total these adjustments equal approx. $34M.
2. The $52.2 million UHI loaned ULF Subsidiaries was $17.2 million more than the $35 million authorized by the ULF Board of Directors.		
3. ULF did not record the UHI Line of Credit at fair value. Thus, ULF potentially overstated the Endowment Pool market value by $60.6 million.		Each month ULF is reporting budget to actual financials including the UHI LOC and providing the Board with full access to all transactions and data.
4. ULF Officers did not provide the ULF Board of Directors sufficient information for the ULF Board of Directors to be fully informed about the UHI Line of Credit.		
5. The ULF Board of Directors failed to properly oversee the UHI Line of Credit.		

Unrecorded Endowment Losses: JGBCC Grant

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF (through UHI) loaned ULRF $10 million of Endowment funds ULRF will not repay.	ULF should not carry this as an asset. ULF should re-assess the likelihood of repayment.	The JGBCC was a grant and not a loan, based upon email exchanges. ULF took a year end adjustment for the entire balance of the JGBCC gift. The actual adjustment was $11.542M including accrued interest. This is not a balance sheet issue.
2. ULF transferred $10 million of Endowment funds for the JGBCC Grant without approval from the ULF Board of Directors.		New policies recommended by the special committee require any expenditures over $25k require executive approval; $200k require the approval of the chair and any over $400k require approval of the board. Additionally, the special committee recommends a policy that unbudgeted expenditures in excess of $50k require the approval of the Board.
3. The JGBCC Grant does not represent an asset. Thus, ULF overstated the Endowment Pool market value by $11.2 million.		ULF made adjustments to its fiscal year ending June 30, 2017 financials totaling approximately $38M, ensuring its endowment value is not overstated

Recorded Endowment Losses: Startup Company Investments

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF invested $9.9 million of Endowment Pool funds in high- risk Startup Companies currently valued at less than $2 million.	ULF should not require startups it invests in to rent space from ULF ULF should accept donations from startup companies it invests in ULF board members should disclose any investments or interests they have in companies ULF invests in	ULF took an adjustment of $8.337M of its Metacyte investments, leaving a value of $275k. The adjustment allows ULF to accurately reflect the current market value of these investments.
2. ULF effectively exceeded the $10 million ULF Board of Directors' authorized limit by guaranteeing loans and providing other benefits, likely costing ULF more than $3.2 million in additional losses.		ULF has eliminated all but one transaction in which it is a guarantor (PGxL). The special committee recommends no guarantees of others without approval of the Board and the request of the Board of Trustees
3. It appears ULF did not report the market value of the Startup Company investments to the ULF Board of Directors until fiscal year 2015.		The special committee recommends no direct investment, other than Cambridge advised assets, be made and unless requested by the Board of Trustees and approved by the Board of directors. If made, no endowment funds may be used. And, no quid pro quo (rents, donations, grants or other support) from investees may be required.
4. ULF Board of Directors, Entrepreneurial Group, and UofL Board of Trustee members' investments in the Startup Companies were not transparent.		ULF has provided training to all Board members on conflicts of interest, has all Board members complete conflict of interest forms annually and reviews these forms for any issues. The special committee has developed a robust conflict of interest policy.
5. Documents and interviewees indicate ULF required at least one Startup Company rent office space from a ULF Subsidiary in exchange for ULF's $3.2 million investment in the Startup Company.		
6. It appears certain Startup Companies funded research through donations rather than Research Sponsorship Agreements to avoid paying UofL overhead charges.		

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Excessive Spending: Spending Rate and Spending Policy Calculation

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF's overstated Endowment Pool market value resulted in ULF spending in excess of 7.48% of the actual Endowment Pool market value.	If ULF calculates various spending policy allocation scenarios, it should review these with the Board and University. Any selected scenario should support UofL and be sustainable. Should the Board allow the President to spend unrestricted funds, ULF must ensure it is done consistent with any limitations approved. Additionally the Board should request follow up data on how much was spent and on what. If the Board approves any spending beyond its budget it should ensure it understands the source of funds and approves it	ULF is heeding the advice of its investment advisor to understand projected market return and set a spending policy that is within that projected return and in line with industry norms. The MOU with the University requires the spending policy to be reviewed with the University prior to approval by the Board of Directors.
2. Despite Cambridge's advice and the ULF Board of Directors Finance Committee directive, ULF failed to exclude the Spending Policy Allocation Carryover from its Spending Policy calculation.		The special committee recommends a policy that prohibits the chief executive from spending unrestricted funds without express board approval.
3. ULF's Spending Policy disclosures were inaccurate and misleading.		ULF is operating with transparency, disclosing all relevant data to the Finance Committee and the entire Board related to the spending policy, its components, total liability and source of funds.
4. ULF Officers and certain ULF Board of Directors members were aware the 7.48% Spending Policy would negatively impact the Endowment Pool and failed to make any substantive changes.		The special committee recommends a policy that any unbudgeted transactions greater than $50k requires Board approval.

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Excessive Spending: Endowment Gift Principal Spent

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF expended the Evergreen Fund (more than $17.6 million in Endowment Gift Principal and earnings) by March 2014.	Should the ULF Board elect to authorize the ULF President to use undesignated quasi endowment funds in the future it should it spends the funds in accordance with any limitations including amount and purpose set forth by the Board. Additionally, the Board should request follow up information on how the money was spent to ensure it spent consistent with authorization.	The special committee recommends a policy that prohibits the chief executive from spending unrestricted funds without express board approval.
2. Certain Evergreen Fund expenditures do not appear to be in accordance with the ULF Board of Directors' authorization.		ULF prepared a line item budget that lists all projected expenses it may incur in 2018. It is reporting budget to actual expense incurred each month to the Board. ULF will be presenting quarterly an update on any liquidation of the endowment that has taken place and will explain the purpose of the liquidation and where the funds have been or will be allocated.
3. It does not appear the ULF Board of Directors monitored ULF's Evergreen Fund expenditures.		The special committee recommends a policy that ULF's chief executive must receive approval from the ULF Board to spend Undesignated Quasi Endowment funds. These funds must be spent in accordance with any limitations, including amount and purpose, established by the ULF Board. The ULF Board, or its designee, will review any spending as to how and when Undesignated Quasi Endowment funds are expended to ensure it is in accordance with the Board's authorization.

Excessive Spending: Liquidation of Additional Endowment Pool Assets

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF liquidated $42 million of Endowment Pool assets to fund unbudgeted and over-budget spending.	If ULF's Board approves an expenditure outside of the budget it should ensure it understands the source of funding. Because the budget was not a complete operating budget that excluded capital expenditures. The unbudgeted spending and/or spending in excess of the budget contributed to ULF's liquidation of endowment pool assets in excess of spending policy.	ULF prepared a line item budget that lists all projected expenses it may incur in 2018. It will be reporting the actual expense incurred each month to the Board. ULF will be presenting quarterly an update on any liquidation of the endowment that has taken place and will be prepared to explain the purpose of the liquidation and where the funds have been or will be allocated.
2. ULF did not include significant expenditures in the ULF Budget provided to the ULF Board of Directors.		The special committee is recommending a policy that any unbudgeted expenditures will be presented to the Board of Directors for review and approval. When approving a transaction, the Board will approve the source of funds for the expenditure.
3. ULF Officers identified the liquidation of Endowment Pool assets in excess of the Spending Policy Allocation as an issue but failed to make any substantive changes.		
4. ULF Officers failed to inform the ULF Board of Directors of the Endowment Pool assets liquidated for spending in excess of the Spending Policy Allocation.		
5. The ULF Board of Directors did not monitor ULF spending to ensure it was in accordance with the ULF Budget.		

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Unbudgeted or Over-Budget Spending: Compensation

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF used Endowment Pool funds (the UHI Line of Credit) to pay select ULF and UofL employees $1.7 million in additional compensation paid through UHI.		Through the 2018 budget process, ULF no longer compensates its employees through any company other than ULF. In addition, in explaining its allocations to the University, it was made clear that no University employees, other than the Office of Advancement, would be funded by ULF. In addition, the MOU between ULF and the University prohibits any ULF funds being used to fund University payroll unless expressly approved by the University's Board of Trustees. Finally, because ULF will be providing monthly budget to actual financial reporting, there will be full transparency in to any compensation paid.
2. ULF paid compensation in excess of budgeted amounts approved by the ULF Board of Directors.		
3. The additional compensation paid through UHI was not transparent.		

Unbudgeted or Over-Budget Spending: Deferred Compensation

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF administered a deferred compensation Plan costing ULF more than $21.8 million, including contributions and earnings of $12.5 million paid to nine employees.	If ULF should elect to implement a new deferred compensation plan, it should develop controls to ensure the plan is designed and administered in line with ULF and ULF Board intentions. These controls should specifically address levels of approval for participation terms including contributions, earnings and vesting periods, as well as oversight to ensure agreed upon terms are appropriately applied.	The special committee recommends a policy that ULF will not adopt a Deferred Compensation plan without approval of the Board of Directors and not within 3 years of the termination of the last plan. Any Deferred Compensation Plan must be designed and administered with controls and approvals governing participation, contributions, earnings, distribution, and vesting periods to ensure consistency, market competitiveness and affordability.
2. It appears ULF paid deferred compensation not approved by the ULF Board of Directors.		No Deferred Compensation plan will be adopted until the proposed plan is fully vetted and approved by both the Board's Compensation Committee (to be formed) and an independent compensation consultant. In addition, the Board will designate appropriate person(s) to provide program oversight to ensure compliance with the terms of the Deferred Compensation Plan.
3. ULF's deferred compensation was not transparent.		
4. The ULF Board of Directors failed to oversee the deferred compensation Plan.		
5. ULF failed to maintain appropriate deferred compensation Plan records.		

Unbudgeted or Over-Budget Spending: Real Estate

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF acquired eight properties at an aggregate $10.3 million above appraised value.	ULF should enact a policy to ensure all future real estate transactions are formally documented and fully vetted, including review and approval of the ULF and/or ULREF Boards and Directors. This policy should include requirements over centralized retention of transaction documentation. When the ULF Board approves unbudgeted expenditures such as real property acquisition it should ensure it understands source of funds used for the purchase.	The special committee recommends a policy that all real estate acquisition and disposition transactions must be documented, reviewed and approved by the Board of Directors and be in compliance with the policy on direct investments. **Any real estate acquisition must support the University's mission or operations and accordingly will only be pursued upon the request or approval of the University.** A qualified appraisal of the subject property must be obtained prior to any transaction. Documentation including the key financial and legal terms of and rationale for the proposed real estate transaction will be prepared and presented to the Board of Directors for review, discussion and vote to approve or disapprove. The Board will approve the source of funds for approved acquisitions.
2. ULF paid $30.1 million for non-revenue generating properties.		The Board will approve the use of proceeds for approved dispositions.
3. ULF entered into below market tenant and ground leases for developed properties. 4. It appears ULF Officers failed to provide the ULF Board of Directors sufficient information related to the real property acquisitions.		The special committee recommends a policy that the chief executive of ULF will be the custodian of all documentation related to real estate transactions. All documentation will be retained in a central location and preserved per ULF's record retention policy.

Unbudgeted or Over-Budget Spending: ULAA Transactions

Summary of Findings

1. ULF expended monies on behalf of ULAA and in return ULAA transferred cash to UofL and waived required donations on season tickets purchased by the Office of the President.

2. ULF spent $15.1 million on ULAA's behalf for which it only received $11.6 million in consideration.

3. ULF funded $4.9 million in compensation paid to certain ULAA employees.

4. In addition to $9.6 million of Ticket Donations ULF satisfied by expending funds on behalf of ULAA, ULF paid ULAA more than $800 thousand annually for football and men's basketball season tickets.

5. ULF liquidated Endowment funds to purchase ULGC.

6. The ULF and ULAA transactions were not transparent.

7. It does not appear the ULF Board of Directors was informed of and/or authorized all of the ULAA property acquisitions.

A&M Recommendations

All future transactions between ULF and ULAA should be transacted in an arm's length manner. ULF should enact a policy to ensure all future transactions be formally documented and vetted, including reviews by the ULF and ULAA boards. If the ULF board approves unbudgeted expenditures such as real property acquisition or loans to ULF subsidiaries it should ensure it understands source of funds used for the purchase.

Foundation Action Taken

The special committee recommends a policy that all exchanges between ULF and ULAA will be transacted in an arm's length manner and require approval of both the ULF and ULAA boards of directors. The Foundation will not serve as a "pass through" entity for ULAA expenses.

ULF and ULAA will prepare documentation of the transaction including the key financial and legal terms as well as the rationale for the proposed transaction.

The documentation will be presented to the ULF and ULAA Board of Directors for review, discussion, and a vote to approve or disapprove.

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Unbudgeted or Over-Budget Spending: Other Notable Spending

Summary of Findings	A&M Recommendations	Foundation Action Taken
1. ULF funded $5.2 million of marketing and advertising expenditures which contributed to ULF exceeding the ULF Budget.		ULF reviewed and identified unnecessary expenditures, including future spending commitments made by the former administration, and negotiated price reductions or extended payment terms where possible.
2. ULF funded $4.5 million of legal and landscaping expenditures which contributed to ULF exceeding the ULF Budget.		The line item budget approved by the ULF Board ensured that no such expenditures will continue to be made. Monthly budget to actual reporting to the ULF Board will provide full transparency to ensure there are no unbudgeted expenditures.
3. ULF paid $243 thousand in consulting fees to certain Entrepreneurial Group members.		
4. Certain Office of the President procurement card purchases may not be in accordance with UofL's policies.		

Underwater Endowments: Understated Underwater Endowments

Summary of Findings

1. ULF’s spending resulted in reported Underwater Endowments of $23.7 million as of June 30, 2016.

2. ULF’s overstated Endowment Pool market value resulted in ULF understating its Underwater Endowments by up to $34.4 million

A&M Recommendations

Foundation Action Taken

With the adjustments referenced prior, it is anticipated that approximately 90 additional endowments will be placed underwater. With its disciplined spending and a favorable stock market, ULF anticipates that endowment earnings will serve to mitigate some of the impact of endowment value adjustments.

State Audit
Key Issues Identified and Recommendations

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Transparency and Cooperation

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"Requests for documentation and other information were met with continued delays and unclear or inconsistent responses."	ULF Board review policies and procedures to ensure accountability and transparency is a clear expectation of officers and staff.	The Foundation hired an Interim Executive Director to manage day-to-day operations of the Foundation. He, in conjunction with new Board leadership, reviewed all policies and procedures. Current policies were revised as necessary and new policies and procedures were created at the direction of the special committee to address the A&M report. To ensure that all operational expectations are clear, appropriate and meet the needs and expectations of our constituents, training has been provided to all ULF staff and Board Members to ensure a full understanding of policies and procedures. All policies and procedures will be reviewed annually.
	All staff receive training on Board policies, Open Meetings and Open Records.	An orientation on Foundation Bylaws, Open Meetings and Open Records and Conflicts of Interest was completed and presented to the Foundation Board of Directors and Foundation staff. Orientation is required within 30 days for new Directors. As new policies and procedures are finalized, they too will be reviewed with ULF employees.
	Review current processes and ensure records are organized to meet transparency and accountability objectives of the board, including a budget to actual analysis for operational costs.	The Foundation prepared a line item budget for the current fiscal year to ensure an ongoing budget to actual analysis is available to management as well as the Boards of ULF and the University.
	ULF consider creating an internal audit function reporting to the ULF Board or committee thereof	ULF believes it is too small and it would be inefficient to have an internal audit function

Loans

Summary of Findings

"Endowment funds totaling $67M,budgeted for use by the University, were loaned to the Foundation and an affiliate organization without prior notification to, or approval by, the UofL Board."

KY Auditor Recommendations

ULF and UofL Boards establish criteria for reporting financial activity to each board. This should include type of activity, dollar threshold and limitations. It should also include the frequency, level of detail and by whom the report shall be given.

Foundation Action Taken

The Foundation developed policies that establish criteria for reporting financial activity to their respective Boards. These policies address:

- Type of activity
- Dollar threshold
- Any limitations or exclusions
- Frequency
- Who will be responsible for said report

Governance

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"Administrative operations of the University and its Foundation were at times indistinguishable and led to ineffective governance."	UofL and ULF discuss together the benefits and possible issues of president of UofL serving as the president of ULF.	ULF revised its bylaws to prohibit the University President from serving as the President of ULF.
	UofL and ULF should consider developing an MOU to establish an effective set of operational and governing policies. This should be done collaboratively and include a review of recommended principles and practices.	ULF appointed a committee on governance who negotiated an MOU with the University which clearly addressed roles, responsibilities and the governance of each institution.

Checks and Balances

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"Actions taken by the former UofL and ULF President to appoint an acting CAO appears to violate the ULF bylaws."	ULF Board and President abide by the ULF bylaws in all matters including the appointment and compensation of officers.	ULF has developed policies that ensure that the Board must approve the hiring of all officers and the compensation for any employee at ULF. Compensation studies by independent third parties will be conducted every two years and reported back to the Board. A governance committee has been created and, as provided in the MOU with the University, bylaws will be reviewed annually and the results reported back to the Board. The governance committee has reviewed and revised the bylaws in conjunction with outside counsel and a consultant hired from AGB.
	ULF Board should ensure appropriate checks and balances are in place to avoid situations in which a single individual has the ability to take actions beyond those authorized.	
	ULF Board designate a committee annually to review the ULF bylaws to determine updates needed. After such a review, the committee should report the review results to the full Board.	

Payments to UofL President

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"The ULF Board compensated the former UofL President beyond the amount approved by the UofL Board and beyond the amount provided for under the terms of his contract."	ULF Board refrain from taking any actions that exceed their authority, such as increasing the President's salary without an official recommendation of the UofL Board. ULF Board compensate its president in compliance with established contract terms.	The MOU between ULF and the University prohibits ULF from paying any compensation to a university employee without the approval of the Board of Directors and the University's Board of Trustees.

Finance Committee

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"The University CFO was not included in meetings of the ULF Board Finance Committee in violation of its bylaws and in direct conflict with his contract with ULF."	ULF Board should structure its committees in accordance with the requirements of its bylaws and all ex officio members should be properly notified of meetings. The UofL CFO should be appropriately involved in financial decisions directly affecting the University. All committee members should be aware of their responsibilities.	The MOU between the University and ULF requires the CFO to be involved in all meetings and decisions that could affect the university as well as all ULF finance committee meetings. The University CFO has been formally apprised of all Foundation Board meetings, all Finance Committee Board meetings and any other committee meetings that affect the University. The Foundation takes seriously its mission to support the University in its academic endeavors. No decisions may or will be made that could affect the University financially without first involving the University CFO.

Board Orientation

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
"ULF Board members did not receive an orientation despite the growing complexity of Foundation operations."	ULF Board, in consultation with ULF staff, develop and implement a formalized orientation for new and returning members to provide a clear understanding of the Foundation, as well as their legal and fiduciary obligations as board members.	An orientation on Foundation Bylaws, Open Meetings and Open Records and Conflicts of Interest was completed and presented to the Foundation Board of Directors and Foundation staff. Orientation is required within 30 days for new Directors. As new policies and procedures are finalized, they too will be reviewed with ULF employees. Board members and staff were provided an orientation binder.
	ULF Board consider involving an independent party in the organization, structure, and content of the board orientation, with input from the board attorney to ensure topics such as legal agreements, conflicts of interests, open records and meetings, and ethics.	The Foundation prepared a line item budget for the current fiscal year to ensure an ongoing budget to actual analysis is available to management as well as the Boards of ULF and the University.
	Orientation material written and formally presented as a manual to assist the orientation process and serve as a useful tool for board members. The orientation should be reviewed periodically to ensure all materials are current. Orientation should be mandatory for all new directors and available for all directors.	

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Internal Audit Function

Summary of Findings	KY Auditor Recommendations	Foundation Action Taken
	ULF Board, in consultation with ULF staff, develop and implement a formalized orientation for new and returning members to provide a clear understanding of the Foundation, as well as their legal and fiduciary obligations as board members.	An orientation on Foundation Bylaws, Open Meetings and Open Records and Conflicts of Interest was completed and presented to the Foundation Board of Directors and Foundation staff. Orientation is required within 30 days for new Directors. As new policies and procedures are finalized, they too will be reviewed with ULF employees. Board members and staff were provided an orientation binder.
	ULF Board consider involving an independent party in the organization, structure, and content of the board orientation, with input from the board attorney to ensure topics such as legal agreements, conflicts of interests, open records and meetings, and ethics.	The Foundation prepared a line item budget for the current fiscal year to ensure an ongoing budget to actual analysis is available to management as well as the Boards of ULF and the University.
	Orientation material written and formally presented as a manual to assist the orientation process and serve as a useful tool for board members. The orientation should be reviewed periodically to ensure all materials are current. Orientation should be mandatory for all new directors and available for all directors.	

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Policies Developed to Address Audit Issues and Improve Governance

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Foundation Actions – Policies* that address:

1. Direct investments
2. Guaranteeing debt of others
3. Loans and extensions of credit
4. Use of Undesignated Quasi Endowments Funds
5. Tax Gross-Up Payments
6. Information systems Security and Responsibility
7. Transactions with ULAA
8. Unbudgeted expenditures

* All policies to be memorialized in MOU, Bylaws or P&P manual

Foundation Actions – Policies* that address (continued):

9. Real Estate Acquisition and Disposition Transactions
10. Filing the ULF and Subsidiaries Form 990
11. Executive Committee Authority
12. Spending policy
13. Deferred compensation
14. Conflict of interest
15. Spending authority

* All policies to be memorialized in MOU, Bylaws or P&P manual

Direct Investments

Purpose: To establish guidelines for direct investments made outside of the Cambridge Advisors relationship.

Policy: Outside of Cambridge advised assets, ULF will not invest funds in individual or early-stage companies without first receiving approval from of the Board of Directors.

Further, given the speculative and higher than normal risk of investments made in non-public companies, ULF shall only make such investments if they are critical to UofL's mission or operations and therefore only at the express request of UofL.

Direct Investments (continued)

Policy: *If requested by UofL,* funding for board-approved investments in individual companies will be sourced from the annual budget or specifically identified program(s) established and funded to incubate start-up companies.

Endowment funds will not be used for such purposes (but may be invested by Cambridge in venture and other funds that invest in individual companies so long as the investment meets the requirements of the endowment investment policies).

ULF will not require companies in which it invests or supports to provide additional value in the form of rents, donations, grants or other similar returns to ULF or any related entity in order to receive an investment from ULF (i.e., no *quid pro quo*).

Direct Investments (continued)

Policy: ULF will adopt a consistent documented due diligence process to vet potential investments in individual companies.

Person(s) performing due diligence will have prior experience investing in individual companies and/or possess appropriate education and experience in evaluating business and investment opportunities.

The persons may include the University of Louisville's Deans of the College of Business and the School of Law or their designees; Director of the Office of Technology Transfer or designees; qualified representatives from industry; and representation from the appropriate University of Louisville academic department(s).

Direct Investments (continued)

Procedure: Upon receipt of a request from the University that ULF consider a direct investment, a due diligence team will be selected by ULF's chief executive.

The due diligence team will obtain and review investment and other related materials and prepare a report for presentation to the Board of Directors.

Board members with an actual or potential conflict of interest may not participate in discussions or votes regarding the investment.

Guarantees for the Debts of Others

Purpose: To establish a policy governing conditions under which ULF may guarantee debt of others.

Policy: ULF will not guarantee the debt of any other person or entity without the approval of the Board of Directors.

Procedure: All proposed debt guarantees will be documented and presented to the Board of Directors for consideration and vote of approval/non-approval.

In recognition of the role ULF plays in supporting UofL, any such guarantees must be critical to the mission or operations of UofL and therefore would only be entered into at the request of UofL.

ULF Chief Executive's Use of Undesignated Quasi Endowments Funds

Purpose: To establish a policy governing conditions for use of Undesignated Quasi Endowment funds by ULF's chief executive.

Policy: ULF's chief executive must receive approval from the ULF Board to spend Undesignated Quasi Endowment funds. These funds must be spent in accordance with any limitations, including amount and purpose, established by the ULF Board.

Procedure: The ULF Board, or its designee, will review any spending as to how and when Undesignated Quasi Endowment funds are expended to ensure it is in accordance with the Board's authorization.

Loans and Extension of Credit

Purpose: To establish a policy governing conditions under which ULF may borrow funds via loans or extensions of credit.

Policy: ULF will not borrow funds or receive extensions of credit in excess of $20,000 without approval from the full Board of Directors.

In recognition of the role ULF plays in supporting UofL, any new extensions of credit or loans must be critical to the mission or operations of UofL and therefore can only be done at the request of UofL.

Procedure: All proposed loans or extensions of credit in excess of $20,000 will be documented. The debt instrument and documentation will be presented to the Board of Directors for consideration and vote of approval/non-approval.

Tax Gross-Up Payments

Purpose: To establish a policy governing conditions under which the ULF may provide tax gross-up payments on items of compensation.

Policy: ULF will not provide "tax gross-up payments" to any person or company nor will it enter into any contract or agreement requiring tax gross up payments without first receiving explicit approval from the Board of Directors. ULF will not provide compensation of any type for UofL employees without the express request and authorization from the BOT as set forth in the parties' MOU.

Procedure: Documentation of proposed tax gross-up payments will be prepared by ULF and presented to the Board of Directors. This documentation shall clearly explain the total cost impact of the proposed gross-up and the reason for it, including recommendations from independent third party compensation consultants, establishing that such gross-ups as well as other compensation is at market and reasonable. **Compensation studies shall be done at least every two years by a consultant.**

Information Systems Data Security and Responsibility

Purpose: Create a policy for the data security and responsibility of ULF information systems.

Policy: ULF will be responsible for the hardware and software that runs the services (file, print, database, financial systems, web, etc.) as well as the backup and disaster recovery process. People outside ULF will need express permission to access ULF data.

For fulfillment of an open records request, ULF will be responsible to disseminate ULF Data (files, emails, letters, reports, etc.) after an appropriate review. 3rd parties are not to release any ULF data, and the request for data must be made directly to ULF.

Information Systems Data Security and Responsibility (continued)

Procedure: A Memorandum of Understanding (section IV, paragraph H.) has been established with the University of Louisville that dictates the terms of accessing ULF data. Unless a "Service Level Agreement" for support supplements the MOU, ULF will be responsible for securing and providing data protection and developing disaster recovery procedures for the foundation environment, as it exists inside of UofL's Central Information Technology infrastructure.

Transactions with UofL Athletics Association (ULAA)

Purpose: To establish a policy governing exchanges between ULF and the University of Louisville Athletics Association ("ULAA").

Policy: All exchanges between ULF and ULAA will be transacted in an arm's length manner and require approval of both the ULF and ULAA boards of directors. The Foundation will not serve as a "pass through" entity for ULAA expenses.

Procedure: ULF and ULAA will prepare documentation of the transaction including the key financial and legal terms as well as the rationale for the proposed transaction.

The documentation will be presented to the ULF and ULAA Board of Directors for review, discussion, and a vote to approve or disapprove.

Unbudgeted Expenditures

Purpose: To establish a policy governing unbudgeted expenditures including but not limited to real estate acquisitions and loans to subsidiaries.

Policy: Any and all unbudgeted expenditures will be presented to the Board of Directors for review and approval. When approving a transaction, the Board will approve the source of funds for the expenditure.

Procedure: ULF will prepare documentation of the proposed unbudgeted expenditure including the proposed funding source for presentation to the Board of Directors.

The Board will review, discuss and vote for approval or disapproval of the unbudgeted expenditure. Approved unbudgeted expenditures will also include the source of funds.

Real Estate Acquisition and Disposition Transactions

Purpose: To establish a policy and formal process governing real estate acquisition and disposition transactions and retention of related documentation.

Policy: All real estate acquisition and disposition transactions must be documented, reviewed and approved by the Board of Directors and be in compliance with the policy on direct investments. **Any real estate acquisition must support the University's mission or operations and accordingly will only be pursued upon the request or approval of the University.**

A qualified appraisal of the subject property must be obtained prior to any transaction.

Documentation including the key financial and legal terms of and rationale for the proposed real estate transaction will be prepared and presented to the Board of Directors for review, discussion and vote to approve or disapprove.

The Board will approve the source of funds for approved acquisitions.

The Board will approve the use of proceeds for approved dispositions.

Real Estate Acquisition and Disposition Transactions (continued)

Policy: The chief executive of ULF will be the custodian of all documentation related to real estate transactions. All documentation will be retained in a central location and preserved per ULF's record retention policy.

Procedure: ULF will document the significant financial and legal terms of the proposed real estate transaction.

The chief executive of ULF will retain all transaction and related board documentation in a central location, preserved per ULF's record retention policy.

Filing of the UofL Foundation and Subsidiaries Form 990

Purpose: To establish a policy requiring filing procedure of the ULF's and its subsidiaries' Form 990.

Policy: Neither ULF nor its subsidiaries will file their Form 990 prior to review and approval by the full Board of Directors.

Procedure: The Form 990 is prepared in draft form by finance staff.

A review date shall be set for the Board of Directors no less than three weeks in advance of the filing deadline. The timing of the review should allow the Board ample time to review and ask questions regarding the Form 990.

During the review of the draft Form 990 with the Board of Directors, ULF shall make available finance staff, accountants, and legal counsel to answer questions and address issues.

Subsequent to the review and approval of the Board of Directors, the Form 990 will be filed.

Executive Committee Authority

Purpose: To establish a policy governing the extent of authority of the ULF Board's Executive Committee.

Policy: The ULF Board's Executive Committee shall not have the full power of the ULF Board. Rather it shall be limited to meeting as a committee to discuss and plan ULF business and the authority to establish committees of the full ULF board.

Procedure: Should the Executive Committee believe actions should be undertaken by ULF related to employees, compensation, assets or any other matter that may impact the operation or financials of ULF, the Executive Committee will be present said issue to the Board of Directors for consideration and vote of approval/non-approval.

Spending Policy Calculation

Purpose: To establish a policy requiring that all spending policy calculation scenarios be presented to the ULF Board of Directors and the leadership of the University of Louisville. This process will ensure the long-term sustainability of the endowment pool into perpetuity while achieving the stated purpose of endowment gifts made to ULF.

Policy: As set forth in the MOU with the University, ULF management will provide a detailed explanation of spending policy scenarios to the ULF Board. These scenarios, along with long-term sustainability and rate of return, will assist in determining the appropriate level of spending made available within a fiscal year. An actual spending report will be presented to the Foundation Board on a quarterly basis, spending in excess of the spending policy must have advance approval from the ULF Board.

Spending Policy Calculation (continued)

Procedure: ULF staff will use its consultants' return expectations to determine several spending policy scenarios using the December 31 values for individual endowments. After consultation with the University of Louisville leadership to receive feedback and agreement on the proposed spending policy, ULF staff will present a proposed policy to the ULF Board which when approved will establish the spending policy for the upcoming fiscal year.

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Deferred Compensation Plan

Purpose: To establish a policy regarding the adoption of a Deferred Compensation Plan.

Policy: ULF will not adopt a Deferred Compensation plan without approval of the Board of Directors and not within 3 years of the termination of the last plan.

Any Deferred Compensation Plan must be designed and administered with controls and approvals governing participation, contributions, earnings, distribution, and vesting periods to ensure consistency, market competitiveness and affordability.

No Deferred Compensation plan will be adopted until the proposed plan is fully vetted and approved by both the Board's Compensation Committee (to be formed) and an independent compensation consultant.

In addition, the Board will designate appropriate person(s) to provide program oversight to ensure compliance with the terms of the Deferred Compensation Plan.

Questions?

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