

Report on the

University of South Alabama

Mobile, Alabama

October 1, 2008 through September 30, 2011

Filed: May 31, 2013



Department of Examiners of Public Accounts

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Ronald L. Jones, Chief Examiner



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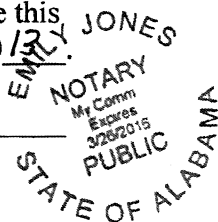
Honorable Ronald L. Jones
Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Sir:

Under the authority of the *Code of Alabama 1975*, Section 41-5-21, I submit this report on the results of the examination of the University of South Alabama, Mobile, Alabama, for the period October 1, 2008 through September 30, 2011.

Sworn to and subscribed before me this
the 10 day of May, 2012.

Hilario O. Lim
Notary Public



Respectfully submitted,

Hilario O. Lim

Hilario O. Lim
Examiner of Public Accounts

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Department of
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SUMMARY

**University of South Alabama
October 1, 2008 through September 30, 2011**

The University of South Alabama (the "University") is a public institution of higher learning and awards baccalaureate, masters, doctor of philosophy and doctor of medicine degrees. The University offers studies in ten colleges: Allied Health Professions, Arts and Sciences, Business, Education, Engineering, Medicine, Nursing, Computer and Information Sciences, Continuing Education and Special Programs, and Graduate School. A joint pharmacy program between the University and Auburn University has also been established. The University owns and operates the University of South Alabama Medical Center, University of South Alabama Children's and Women's Hospital, and University of South Alabama Mitchell Cancer Institute. Additional information on the history of the University is included in the Comments section of this report.

The Coastal Recovery Commission

On June 11, 2010, BP Exploration and Production, Inc. (BP) and the State entered into an agreement whereby BP provided \$25 million to assist in paying costs incurred related to the oil spill. The agreement mentioned anticipated uses, but gave the designated agency full discretion to determine the appropriate use of the payment. The agreement included a requirement that the funds would be disbursed in a manner that complied with state laws and regulations. On September 21, 2010, the Alabama Emergency Management Agency (AEMA) and the University entered into an agreement whereby the University would function as the fiscal and contracting agent of the Coastal Recovery Commission (CRC). This agreement would end on June 30, 2011. Under this agreement the AEMA would transfer \$1,000,000.00 to the University to be used for services performed after the date of the agreement. The vendors were to be chosen by the CRC. On September 27, 2010, the Governor issued Executive Order #52 to create the CRC. On October 18, 2010, the University entered into an agreement with the CRC to function as fiscal and contracting agent for the CRC. According to the agreement all expenditures were to be approved by the Executive Director of the CRC and the University. The CRC was governed by an executive committee composed of a Chairman and ten members appointed by the Governor. There would also be advisory members nominated by the executive committee and appointed by the Governor (the Commission).

The CRC was to analyze the impacts of the spill and develop and organize recommendations, projects and programs for the restoration of public health, the economy and environment and issue a Resiliency Plan. The Resiliency Plan was to be provided to the Governor by December 15, 2010. On January 12, 2011, the Governor authorized the CRC to utilize the remaining funds to implement recommendations in the Resiliency Plan and authorized the transfer of the remaining funds to a private foundation. The CRC expended \$621,185.18 through August 2011 and the University refunded the remaining \$378,814.82 to the AEMA. The following is a summary of the expenditures incurred.

Description	Amount
<u>Professional Service Contracts</u>	
Administrative Staff	\$247,089.96
Writers	64,465.69
Public Relations Team	149,957.17
Digital Production Services	91,870.00
Press Conference Consultant	12,000.00
Total Professional Services	565,382.82
<u>Other Goods and Services</u>	
Meeting Venues	3,530.50
Meeting Meals/Refreshments	7,345.05
Meeting Equipment Rental	29,925.00
Printing	10,048.75
Miscellaneous	4,953.06
Total Other	55,802.36
Total Expenditures	\$621,185.18

The firm of KPMG, LLP conducted the financial audit of the University for the fiscal years ended September 30, 2009, 2010 and 2011.

This report presents the results of an examination of the University and a review of compliance by the University with applicable laws and regulations of the State of Alabama in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5-14.

There were no findings in the prior audit.

Findings relating to the University and the CRC are numbered and reported by the fiscal year in which the finding originally occurred.

The following instances of noncompliance with state laws and regulations and other matters was found during the audit as shown on the Schedule of State Compliance and Other Findings and is summarized below.

CURRENT FINDINGS – University of South Alabama

- ◆ 2011-01 Construction project changes authorized by the University do not appear to comply with the *Code of Alabama 1975*, Section 39-2-2.
- ◆ 2011-02 Controls were not adequate to ensure compliance with the Alabama Open Meetings Act.

CURRENT FINDINGS – Coastal Recovery Commission

- ◆ 2011-03 Purchase orders were not obtained prior to purchasing goods and services as required by University policy. In two instances equipment was rented without letting bids as required by the *Code of Alabama 1975*, Section 41-16-20.
- ◆ 2011-04 Contracts exceeding \$5,000.00 were executed with sixteen vendors without obtaining disclosures as required by Act 2001-955.

A review by an employee of the USA Children's and Women's Hospital gift shop disclosed some cash discrepancies involving a former employee. The University internal auditors conducted an investigation of this matter and other activities of a former employee. In a report issued on June 20, 2011 the internal auditors identified \$31,736.90 in missing funds, improper use of the Universities sales tax exemption, and a fictitious \$600.00 invoice. Without admitting any liability for any or all of the \$31,736.90 the former employee agreed to pay the University the \$31,736.90 according to a prescribed schedule. As of the date of this report the \$31,736.90 had been paid to the University.

The following officials/employees were invited to an exit conference to discuss the findings and recommendations appearing in the report: V. Gordon Moulton, President; M. Wayne Davis, Vice-President for Financial Affairs; Scott Weldon, Assistant Vice-President for Financial Affairs. The following individuals attended the exit conference: M. Wayne Davis, Vice-President for Financial Affairs; Scott Weldon, Assistant Vice-President for Financial Affairs; Steve Simmons, Associate Vice-President for Financial Affairs; Kelly Peters, Controller; and Ben Tipton, Associate Controller. Representing the Department of Examiners of Public Accounts were Hal Bradsher, Audit Manager; and Hilario Lim, Examiner-in-Charge.



Department of
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COMMENTS

**University of South Alabama
October 1, 2008 through September 30, 2011**

The University of South Alabama (the "University") was created in May 1963 by act of the Alabama Legislature. The Board of Trustees held their first meeting in October 1963. In April 1964 the University moved from 154 St. Louis Street to its present location at 307 University Boulevard. The first classes began June 1964. In 1968 the University was admitted membership in the Southern Association of Colleges and Schools. The University established a medical school in 1969, which was supported by the Alabama Legislature. Mobile General Hospital was transferred to the University in 1970 and was later renamed University of South Alabama Medical Center. The University's first doctoral program was established in 1978. The University of South Alabama Children's and Women's Hospital was established in 1983. The University established a branch in Baldwin County in 1984. Relocation of the Providence Hospital in 1987 led to the acquisition of the former Providence Hospital, now known as the University of South Alabama Springhill Avenue Campus. The University acquired Doctors Hospital and Knollwood Park Hospital in 1990. The former Doctors Hospital currently houses the University of South Alabama Children's and Women's Hospital. In 2002, the University of South Alabama Cancer Research Institute was established. In 2005, the University and Infirmity Health System announced a strategic health care alliance to enhance health care in the region and provide innovative cancer treatment and research through the University of South Alabama Cancer Research Institute. As part of this alliance the University agreed to acquire 6.7 acres from Infirmity Health System as a site for a new Cancer Research facility. In 2006, the University of South Alabama Cancer Research Institute became the University of South Alabama Mitchell Cancer Institute and in late fiscal year 2008, the Institute moved into a new facility on the property formerly owned by the Infirmity Health System and contiguous with the Mobile Infirmity and University of South Alabama Children's and Women's Hospital. In 2006, the Infirmity Health System leased the former Knollwood Park Hospital from the University.

*Schedule of State Compliance
and Other Findings*

Schedule of State Compliance and Other Findings

For the Year Ended September 30, 2011

FINDINGS – UNIVERSITY OF SOUTH ALABAMA

Ref. No.	Finding/Noncompliance
2011-01	<p><u>Finding:</u></p> <p>The <i>Code of Alabama 1975</i>, Section 39-2-2, requires awarding authorities to advertise for sealed bids before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000).</p> <p>Public Works contracts are sometimes adjusted during the course of construction due to unforeseen circumstances not contemplated by the owner when bid specifications were prepared. These adjustments are referred to as change orders.</p> <p>The Attorney General, in Opinion 79-313, set out the types of change orders to be allowed on public works projects as follows:</p> <ol style="list-style-type: none"> 1. Minor changes for a total monetary value less than required for competitive bidding; 2. Changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of the work; 3. Emergencies arising during the course of the work on the contract; 4. Changes or alternates provided for in the original bidding where there is no difference in the price of the change order from the original best bid on the alternate; 5. Changes of relatively minor items not contemplated when the plans and specifications were prepared and the project was bid which are in the public interest and which do not exceed 10% of the contract price. <p>The opinion also required that a signed statement from the architect be attached to each change order containing the following:</p> <ol style="list-style-type: none"> 1. A statement of what the change order covers and who instituted the change order and why it is necessary or desired; 2. There must be a statement stating the reasons for using the change order method rather than competitive bids; 3. There must be a statement that all prices have been reviewed and found reasonable, fair and equitable and recommending approval of the same; 4. The local owner shall either endorse the architects statement and recommendations or submit a separate statement covering the foregoing items. <p>The Alabama Building Commission has developed forms to be used to process project changes. These forms require the Owner and Architect to supply information needed to fulfill the requirements of Attorney General Opinion 1979-313 that lists the guidelines relating to Change Orders.</p>

Schedule of State Compliance and Other Findings

For the Year Ended September 30, 2011

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u></p> <p>Bid specifications for the Engineering and Computer Science Building required contractors to include \$400,000 in their bids to cover unforeseen conditions or minor changes that are necessary to correct or supplement the work as detailed in the contract documents as an Owners Contingency. Contractors were also required to include \$550,000 for a proposed fountain based on an estimate of the cost. According to the specifications, the \$400,000 would be removed from the contract with a deductive change order if not used to cover contract changes. The Engineering and Computer Science Building project was awarded to a General Contractor for \$28,854,000 which included the \$400,000 and the \$550,000. The contract allowed the Subcontractors and General Contractor to add 10% and 15%, respectively, to costs relating to any project change orders to cover overhead and profit.</p> <p>The building was dedicated in September 2012. As of December 17, 2012, the last payment to the contractor was based on a billing for the period ended December 31, 2011, at which time:</p> <ul style="list-style-type: none"> ✓ six Change Orders had been processed, adding a net total of \$3,728,940 (13%) to the original \$28,854,000 contract, bringing the total to \$32,582,940; ✓ a balance of \$1,970,323.36 remained to be paid; ✓ \$384,156.13 of the \$400,000 allowance had been awarded to the General Contractor to cover project changes; ✓ and, \$522,500 of the \$550,000 Fountain Allowance had been awarded to the General Contractor without taking competitive bids in accordance with the <i>Code of Alabama 1975</i>, Section 39-2-2. <p>Our examination included a review of five project changes totaling \$144,851 that were charged to the \$400,000 allowance and included in the \$384,156.13 above. One of the changes, in the amount of \$40,662, was for the installation of drainage and waterproofing on elevator shafts. The architect would not approve the proposal as submitted due to the fact that a portion of the amount requested was to cover work already included in the original contract specifications. The documentation for two of the changes totaling \$39,855 did not include any certifications from the architect. Two of the changes initiated by the owner, totaling \$64,334, included architect certifications relating to the cost. It was noted that the 15% addition for the General Contractors overhead and profit was not added to costs funded by the allowance. Funding of the three changes from the allowance without a statement from the architect that all prices have been reviewed and found reasonable, fair and equitable did not appear to comply with the guidance issued in Attorney General Opinion 1979-313.</p>

Schedule of State Compliance and Other Findings

For the Year Ended September 30, 2011

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u></p> <p>Change Order number five resulted in cumulative changes that exceeded the 10% recommendation mentioned in Attorney General Opinion 1979-313. Attached to this change order was a letter from the University's Program Manager to the University's Legal Counsel. According to this letter, owner scope changes incorporated into Change Orders added at least 9% to the contract at this point. Numerous Change Order Proposals (COPs) are processed relating to items of concern that arise during a construction project. Periodically approved COPs are included in a single Change Order. Our examination of COPs revealed the following:</p> <p>COP #13b was the addition of \$212,992 for an 18 foot space frame sphere to hang in the atrium of the building. The sphere was not in the specifications when the project was bid. Although an Illinois company installed the sphere, the \$212,992 included \$27,782 (15%) for overhead and profit of the General Contractor. COP #10 was the addition of \$159,934 for enhanced computer lab casework. The additional cost consisted of \$186,491 charged by the casework supplier, \$20,861 (15%) for overhead and profit of the General Contractor, and a \$47,418 reduction for elimination of the casework in the original specifications. COP #82 was the addition of \$58,471 for eight reception desks. The additional cost consisted of \$50,844 charged by the furniture supplier and \$7,627 (15%) for overhead and profit of the General Contractor. Since there was no deduction for work relating to reception desks, it appears the reception desks were not included in the contract specifications. It was determined the laboratory casework and furniture supplied for COP #10 and COP #82 was provided by the supplier at the state contract price which calls for installation by the supplier. In a statement stating the reasons for using the change order method rather than competitive bids relating to these COPs, the architect stated "tradesmen not already on the job will be reluctant to undertake the work, and to do so only for premium profit". However, it appears tradesmen not already on the job installed the materials in the three COPs mentioned above. This appears to be contradictory to the architect's certification. Another Change Order included 9 COPs relating to achievement of Leadership in Energy and Environmental Design (LEED) certification totaling \$453,231. This total included \$409,268 in cost and \$43,963.00 for overhead and profit for the General Contractor. LEED certified buildings are more energy efficient and environmentally friendly. The certification can provide up to a \$1.80 per square foot tax deduction for the designing architect. Although the attainment of LEED certification in this and previously constructed buildings was discussed in a Board meeting on March 13, 2009, none of these changes were incorporated in the specifications when the project was bid and awarded in September 2009.</p>

Schedule of State Compliance and Other Findings

For the Year Ended September 30, 2011

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u></p> <p>It appears all these changes were foreseeable or contemplated prior to the bid of the project. Approval of these changes may not comply with the types of changes to be allowed on public works projects mentioned in Attorney General Opinion 1979-313.</p> <p>According to the Architect, COP# 54 and 83 were processed to install zone valves and repair existing hydronic piping. The work included the installation of valves, location of leaks, and replacement of pipes. The total cost added for this work was \$224,656 which included \$22,960 for overhead and profit of the General Contractor. The architect deferred approval of the costs associated with these COPs to the owner. According to Attorney General Opinion 1979-313, there must be a statement that all prices have been reviewed and found reasonable, fair and equitable and recommending approval of the same by the architect. Since there was no such statement by the architect, the addition of the \$224,656 change may not comply with procedures outlined by the Attorney General.</p> <p><u>Recommendation:</u></p> <p>The University should develop controls to ensure compliance with the <i>Code of Alabama 1975</i>, Section 39-2-2 and Attorney General Opinion 1979-313.</p>
2011-02	<p><u>Finding:</u></p> <p>The University records meetings of Board and Committee meetings for use in compiling the minutes that are adopted by the Board. The <i>Code of Alabama 1975</i>, Section 36-25A-1 through 11 lists the requirements of the Alabama Open Meetings Act. The Board is required to maintain accurate records of its meetings. In order to convene an executive session, the governmental body must adopt, by recorded vote, a motion calling for the executive session and setting out the purpose of the executive session. The presiding officer shall state whether the governmental body will reconvene after the executive session and, if so, the approximate time the body expects to reconvene. A review of minutes of the Board of Trustees and Committee meetings held from March 2010 to September 2011 revealed the following:</p> <ul style="list-style-type: none"> ✓ Two instances where items were discussed on the audio file but were not recorded in the official minutes. ✓ Two instances where executive sessions were called, but the purpose was not listed in the minutes. <p><u>Recommendation:</u></p> <p>The University should develop procedures to ensure the accuracy of the Board minutes and compliance with the Alabama Open Meetings Act.</p>

Schedule of State Compliance and Other Findings
For the Year Ended September 30, 2011

FINDINGS – COASTAL RECOVERY COMMISSION

Ref. No.	Finding/Noncompliance
2011-03	<p><u>Finding:</u> To ensure compliance with budget restrictions and regulations, University policy requires departments to submit requisitions and obtain purchase orders to obtain goods and services. During our examination period, the <i>Code of Alabama 1975</i>, Section 41-16-20, stated that all contracts of whatever nature for labor, services, work, or for the purchase or lease of materials, equipment, supplies, other personal property or other nonprofessional services, involving \$7,500 or more, made by or on behalf of any state department, board, bureau, commission, committee, institution, corporation, authority, or office shall, except as otherwise provided in this article, be let by free and open competitive bidding, on sealed bids, to the lowest responsible bidder. The agreement between BP and the State of Alabama included a requirement that the funds provided to the State would be disbursed in a manner that complied with state laws and regulations. The Coastal Recovery Commission did not submit requisitions or obtain purchase orders prior to obligating the University for goods and services and entered into two contracts for the rental of equipment totaling \$28,420.00 without taking bids.</p> <p><u>Recommendation:</u> Controls should be developed to ensure the University's purchasing procedures are used in order to comply with the regulations.</p>
2011-04	<p><u>Finding:</u> The <i>Code of Alabama 1975</i>, Section 41-16-82, requires a disclosure statement be completed and filed with all proposals, bids, contracts, or grant proposals to the State of Alabama in excess of \$5,000. Pursuant to the <i>Code of Alabama 1975</i>, Section 41-16-84 (b), the State of Alabama shall not enter into any contract or appropriate any public funds with any person who refuses to provide information as required. The Coastal Recovery Commission entered into contracts with sixteen entities that received contracts in excess of \$5,000.00. Disclosure Statements were not available relating to these contracts.</p> <p><u>Recommendation:</u> Controls should be developed to ensure that University approved purchasing procedures are used in order to comply with the regulations.</p>

Additional Information

Board Members and Officials
October 1, 2008 through September 30, 2011

Board Members		Term Expires
Hon. Robert Bentley, Governor (Sworn in 01/2011)	President, Ex-Officio	
Hon. Bob Riley, Governor (Replaced 01/2011)	President, Ex-Officio	
Hon. Larry E. Craven, J.D., Interim State Superintendent of Education (Effective 09/2011)	Member Ex-Officio	
Dr. Joseph B. Morton, State Superintendent of Education (Retired 09/2011)	Member Ex-Officio	
Hon. James A. Yance	Chair Pro Tempore	2021
Hon. Steven P. Furr, M.D.	Vice-Chair	2017
Hon. Bettye R. Maye	Secretary	2017
Hon. Donald L. Langham	Member	2009
Hon. James P. Nix	Member	2009
Hon. J. Cecil Gardner	Member	2013
Hon. Samuel L. Jones	Member	2013
Hon. Christie D. Miree	Member	2013
Hon. Bryant Mixon	Member	2013
Hon. Kenneth O. Simon	Member	2013
University of South Alabama Mobile, Alabama	2	Exhibit #1

Board Members and Officials
October 1, 2008 through September 30, 2011

Board Members		Term Expires
Hon. John M. Peek	Member	2017
Hon. Steven H. Stokes, M.D.	Member	2017
Hon. Larry D. Striplin, Jr.	Member	2017
Hon. Scott A. Charlton, M.D.	Member	2021
Hon. E. Thomas Corcoran	Member	2021
Hon. Arlene Mitchell	Member	2021
Hon. James H. Shumock	Member	2021

Officials

Mr. V. Gordon Moulton	President
Mr. M. Wayne Davis	Vice-President for Finance
Mr. William Bush	Assistant Vice-President for Hospital Financial Affairs