MEMORANDUM

TO: Tom Case, UAA Chancellor  
    Brian Rogers, UAF Chancellor  
    John Pugh, UAS Chancellor  
    Robert Boeckmann, Faculty Alliance Chair  
    Carey Brown, Staff Alliance Chair

FROM: Ashok Roy, VP Finance & Administration/CFO

DATE: January 15, 2014

SUBJECT: Proposed Regulation R05.02.090 Financial Fraud, Waste and Abuse

The Board of Regents in September, 2013, adopted Policy P05.02.090 addressing the identification and reporting of financial fraud, waste and abuse. In accordance with Board of Regents’ Policy P01.03.020 (B), on behalf President Gamble, I seek your review and comments on proposed regulation R05.02.090.

Please review the attached regulation draft and let me know by February 28, 2014, if you or the group you represent have any comments or questions regarding the proposed regulation.

PKG

Cc: Patrick Gamble, President  
    Nikki Pittman, Chief Audit Executive
R05.02.090 Financial Fraud, Waste and Abuse

A. Definitions

1. “Fraud” means the intentional false representation, concealment, or failure to disclose a material fact for the purpose of personal gain or causing harm to another party.

2. “Waste” means the thoughtless or careless expenditure, consumption, mismanagement, use, or squandering of resources owned or operated by the university to the detriment or potential detriment of the university. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls. Waste does not normally lead to an allegation of fraud, but it could.

3. “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, or noncompliance with provisions of laws, regulations, contracts, or grant agreements.

4. “Financial irregularities” means the intentional misstatements or omissions of information related to financial transactions in a manner detrimental to the interest of the university. These may include intentional efforts to conceal the nature of transactions or intentional violations of relevant federal or state laws or university policies, regulations, or procedures.

5. A “suspected fraud, waste, abuse or financial irregularity” means a reasonable belief or actual knowledge that fraud, waste, abuse, or financial irregularity is occurring or has occurred.

6. The terms fraud, waste, abuse, and financial irregularities include, but are not limited to:
   - Any dishonest or fraudulent act related to university resources
   - Misappropriation of funds, securities, supplies or other assets
   - Forgery or falsification of reports, documents or computer files to conceal transactions or misappropriate assets
   - Impropriety in the handling or reporting of money or financial transactions
   - Attempting to use insider knowledge of university activities for financial gain
   - Disclosing confidential and propriety information to outside parties
   - Failure to report gifts in excess of $150 (AS 39.52.130(b))
   - Seeking or possessing an interest in a university contract that is prohibited by AS 39.52.150, Regents’ Policy, or university regulation
- Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to the university
- Granting unwarranted benefits
- Destruction, removal, or inappropriate use of university records, furniture, fixtures, or equipment
- Any similar or related irregularity

B. Scope

P05.02.090 and this regulation apply to any suspected fraud, waste, abuse or financial irregularity involving university employees and consultants, vendors, contractors, outside agencies and/or any other parties doing business with the university. Determinations regarding the need for and scope of investigations will be made without regard to length of service, position, title, or relationship to the university.

C. Responsibilities

1. Management

Management is primarily responsible for the detection and prevention of fraud, waste, abuse, and financial irregularities. Each employee in a management position should be familiar with the potential fraud, waste, abuse, and financial irregularities that could occur within his or her area of responsibility.

2. Employees

All university employees should be knowledgeable about the fraud, waste, abuse and financial irregularities policies and regulations. As provided further in this regulation, employees should report suspected fraud, waste, abuse, and financial irregularities.

3. Chief Audit Executive / General Counsel

The chief audit executive for the Office of Audit and Consulting Services coordinates all investigations with the Office of General Counsel and other affected areas, both internal and external. The Office of Audit and Consulting Services may also conduct investigations on behalf of and at the request of General Counsel when determined to be appropriate by General Counsel and the chief audit executive.

D. Reporting Requirements and Procedures

1. Obligation to Report

An employee who discovers or suspects fraud, waste, abuse, or financial irregularities is required to report the activity to the Office of Audit and
Consulting Services. An employee who fails to report actual or suspected fraud, waste, abuse, or financial irregularity or who makes a bad faith report of such activity may be subject to disciplinary action.

2. **Procedure**

Reports may be made using the university’s third-party reporting system:
- Toll-free hotline: 1-800-XXX-XXXX
- Web: [address will be assigned shortly]

Reports may also be made directly to the chief audit executive:
- The Statewide Office of Audit and Consulting Services
- Telephone: (907) 450-8094
- Web: [http://www.alaska.edu/audit](http://www.alaska.edu/audit)

Reports may be anonymous. However, anonymous reports may limit the university’s ability to investigate and request additional information. The university encourages employees making reports to include a name and contact information. Employees who make a good faith report are protected from retaliation in accordance with Regents’ Policy and AS 39.90.100.

E. **Investigation Procedures**

1. **Investigation**

The Office of Audit and Consulting Services is primarily responsible for investigating suspected fraud, waste, abuse and financial irregularities.

a. Within ten (10) days of receiving a report of fraud, waste, abuse, or financial irregularity, the chief audit executive or designee shall determine whether the report warrants further investigation.

b. If the chief audit executive or designee determines that an investigation is not warranted, then the chief audit executive or designee shall document the determination and supporting reasons for the determination in writing.

c. If the chief audit executive or designee determines that an investigation is warranted, then the chief audit executive or designee shall document that determination and supporting reasons in writing and proceed with an investigation, and notify the president and chief financial officer.

Investigations may be conducted in conjunction with General Counsel, law enforcement, or other outside entities. At the conclusion of an investigation, the Office of Audit and Consulting Services shall prepare a written report detailing the investigation that includes findings and recommendation for further action.
During the course of an investigation, Office of Audit and Consulting Services staff shall have free and unrestricted access to all records and premises under university control. Audit and Consulting Services staff shall also have authority to examine, copy, and remove all or any portion of university records or property, including the contents of computers, files, desks, cabinets, and other paper and electronic storage devices or facilities on premises controlled by the university, without prior knowledge of or consent by any person(s) who might use or have custody of such items or facilities.

2. Review and Action Following Investigation

The Office of Audit and Consulting Services shall provide a copy of the written report to General Counsel. If the Office of Audit and Consulting Services and General Counsel concur that the investigation substantiates a finding of fraud, waste, abuse or financial irregularities, then the chief audit executive shall immediately communicate such findings to the president and chief financial officer and to the Board of Regents through its audit committee.

The Office of Audit and Consulting Services, General Counsel, and senior management, as appropriate under the circumstances, shall consult and determine whether to refer the investigation results to law enforcement or other outside entities for independent investigation.

Investigation shall be closed after review and a determination that closure is appropriate by the chief audit executive.

All inquiries regarding the investigation shall be directed to General Counsel for response.

F. Confidentiality

The Office of Audit and Consulting Services, General Counsel, and other university departments involved in an investigation shall treat all information received with discretion. The university cannot keep all information confidential since some information will necessarily be disclosed during the course of the investigation; however, information will only be disclosed or discussed as needed to conduct the investigation or take corrective action, or to those with a legitimate need to know. Employees who make reports of fraud, waste, abuse, or financial irregularities and those employees interviewed or contacted during the course of an investigation should similarly use discretion with regard to the investigation.

G. Corrective Action

The Office of Audit and Consulting Services does not have authority to take action regarding any employee’s employment with the university. However, where appropriate,
the Office of Audit and Consulting Services will provide a copy of its investigative report to appropriate managers and human resources representatives for further action.

If the investigation concludes that fraud, waste, abuse, or financial irregularities involved third parties (not university employees), General Counsel, in consultation with the Office of Audit and Consulting Services, shall take appropriate legal action.

H. Administration

The chief audit executive is responsible for the administration, revision, interpretation, and application of P05.02.090 and these regulations.