

University Rights Agreement

Report FY18 - #03
September 30, 2021

Submitted to:

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University Rights Agreement

Summary

Our audit of the University Rights Agreement and Amendments (Agreement) with IMG College, LLC (IMG) was included in the approved Fiscal Year (FY) 2018 Audit Plan. University of Arizona (UArizona) strategic initiatives encourage partnerships that provide services while generating revenues and support for UArizona. This is our first audit of this Agreement.

Background: IMG¹ is a national collegiate sports media and marketing company serving universities and athletic conferences across the country. UArizona and IMG entered into the original Agreement on July 1, 2004. On three occasions (2006, 2009, and 2015), the Agreement was amended to expand the relationship and grant IMG the exclusive rights to operate the “University of Arizona Athletics Corporate Sponsorship Program” (Sponsorship Program). The Third Amendment extended the end date to June 30, 2024.

The Agreement is administered by the Department of Intercollegiate Athletics (ICA), and is designed to create a strategic partnership with IMG to “provide a unique and powerful platform for our corporate partners to grow their brand by connecting them with the loyal, passionate, and market dominant fan base of Arizona Athletics.”²

IMG pays annual rights and royalty consideration payments in exchange for the right to retain the revenues generated from the Sponsorship Program. Also, separate agreements with UArizona coaches for sponsor endorsement services may be executed by IMG. Finally, IMG dedicates staff to serve as their on-site “Wildcat Sports Properties Team” with office spaces and minimal IT support provided by ICA.

Audit Objective: To determine compliance with the terms and conditions of the executed Agreement.

Scope: The scope of this audit included the terms of the executed Agreement, in addition to the performance of surrounding compliance and monitoring activities through March 2019.

Methodology: Our audit objective was accomplished by performing the following:

- meeting with the Senior Associate Athletic Director, External Operations, and the then Senior Associate Athletic Director, Business Affairs, to obtain an understanding of how ICA accomplishes administration of the Agreement;

¹ IMG was known as Host Communications, Inc. when the Agreement was executed and had since changed their name to IMG College, LLC. After the completion of audit fieldwork, their legal name became Learfield IMG College due to a merger with Learfield Communications.

² Source: www.arizonawildcats.com

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- verifying that contractual consideration payments are being received in compliance with the terms of the Agreement and are deposited timely;
- verifying and observing the following Agreement compliance and monitoring activities performed by responsible ICA staff relative to:
 - IMG's operation and development of the Sponsorship Program;
 - performance of obligations to work with IMG on Sponsorship Program planning, benefit fulfillment, and maintenance of exclusivity rights;
 - IMG staff use of provided office spaces, IT resources, and access to locked UArizona athletic facilities;
 - the provision of game tickets, parking passes, and Wildcat Club Benefit Points for the Sponsorship Program;
 - radio game broadcasts and coaches' shows;
 - coaches' endorsements and the associated obligations pertaining to conflicts of interest and commitment;
- evaluating activities to review and approve IMG's usage of UArizona Marks with the Director of the Trademarks and Licensing Office;
- interviewing the on-site IMG General Manager to corroborate information obtained during the audit;
- discussing insurance coverage requirements with the Chief Risk Officer;
- consulting with the Office of General Counsel (OGC) regarding Agreement terms.

Conclusion: Based on our audit work, we found the controls to ensure compliance with the Agreement are generally effective. Annual consideration payments from IMG have been timely and are continuously monitored for compliance. Also, ICA has successfully negotiated and amended consideration payment terms to help increase royalties. Additionally, we determined the use of UArizona Marks complies with institutional policy.

We also found that ICA has dedicated staff resources to support and monitor IMG's Sponsorship Program responsibilities and to develop the program. Examples include working with IMG to fulfill sponsorship benefits, ensuring IMG's exclusivity rights are not compromised, and distributing game tickets, parking passes, and Wildcat Club Benefit Points to sponsors. Also, activities to monitor radio broadcasts and coaches' shows are being accomplished to help ensure ongoing compliance. Finally, IMG's use of office spaces and IT resources is controlled.

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Our audit identified four opportunities for improvement affecting the Annual Rights Fee payments, the distribution of game tickets and parking passes for the Sponsorship Program, issuance of athletic facility access keys, and coaches' endorsements. See pages 5 through 9 for further details and our recommendations.

The Agreement is in its seventeenth year as of the date of this report, and the working relationship with IMG has evolved. Although multiple amendments have been executed, we noted that some of the current administrative practices may not be reflected in the terms. We determined these practices do not lead to material instances of noncompliance. Therefore, we verbally communicated to ICA that the relevant parts of the Agreement should be updated to better reflect the current practices if a future amendment occurs.

We also verbally communicated other minor avenues to foster management's administration of the Agreement and compliance with applicable UArizona policies.

According to the Institute of Internal Auditors International Professional Practices Framework, an organization is expected to establish and maintain effective risk management and control processes. These control processes are expected to ensure, among other things, that:

- the organization's strategic objectives are achieved;
- financial and operational information is reliable and possesses integrity;
- operations are performed efficiently and achieve established objectives;
- assets are safeguarded; and
- actions and decisions of the organization are in compliance with laws, regulations, and contracts.

Our assessment of these control objectives as they relate to the executed Agreement is presented on the following page.

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General Control Objectives	Control Environment	Audit Result	
		No.	Page
Achievement of the Organization's Strategic Objectives			
<ul style="list-style-type: none"> Strategic objectives are supported by partnerships that provide services while generating revenues and support. 	Reasonable to Strong Controls in Place		
Reliability and Integrity of Financial and Operational Information			
<ul style="list-style-type: none"> Consideration payments are deposited timely and correctly recorded. 	Reasonable to Strong Controls in Place		
Effectiveness and Efficiency of Operations			
<ul style="list-style-type: none"> Controls ensure received consideration payments comply with the Agreement. 	Opportunity for Improvement	1	5
<ul style="list-style-type: none"> IMG Sponsorship Program responsibilities are monitored for compliance. 	Reasonable to Strong Controls in Place		
<ul style="list-style-type: none"> Radio game broadcasts and coaches' shows are monitored for compliance. 	Reasonable to Strong Controls in Place		
Safeguarding of Assets			
<ul style="list-style-type: none"> Controls ensure compliance over the distribution of game tickets and parking passes for the Sponsorship Program. 	Opportunity for Improvement	2	7
<ul style="list-style-type: none"> Wildcat Club Benefit points are allocated to sponsors in compliance. 	Reasonable to Strong Control in Place.		
<ul style="list-style-type: none"> Office spaces and IT support provided to IMG are controlled. 	Reasonable to Strong Controls in Place		
<ul style="list-style-type: none"> IMG access to locked UArizona athletic facilities complies with institutional policy. 	Opportunity for Improvement	3	8
<ul style="list-style-type: none"> Controls ensure compliance over the usage of UArizona Marks. 	Reasonable to Strong Controls in Place		
Compliance with Laws and Regulations			
<ul style="list-style-type: none"> Consideration payments are processed according to institutional policy. 	Reasonable to Strong Controls in Place		
<ul style="list-style-type: none"> Duties to work with IMG on Sponsorship Program planning, benefit fulfillment, and exclusivity maintenance are performed. 	Reasonable to Strong Controls in Place		
<ul style="list-style-type: none"> Obligations over coaches' endorsements are performed in compliance. 	Opportunity for Improvement	4	9
<ul style="list-style-type: none"> Insurance coverage complies with Agreement requirements. 	Reasonable to Strong Controls in Place		

We appreciate the assistance of both ICA and IMG representatives during the audit.

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Audit Results, Recommendations, and Responses

1. Reductions to Annual Rights Fee payments were not consistent with the Agreement.

Condition: Management permitted recurring reductions to the Annual Rights Fee consideration payment without comparing them to the Agreement to determine if they are allowable and appropriately applied as follows:

- A reduction due to Pac-12 Conference requirements is scheduled to occur for the remaining term of the Agreement. Both parties were fully aware of the reduction.
- Two reductions resulting from in-kind barter arrangements with sponsors to occur for the term of those agreements. Although this type of reduction is permitted, management could not provide evidence that the amounts were calculated correctly.

Criteria:

- *Amendment Three, Item #4, Section IX-A* states, "...for the rights and privileges granted... will pay to the University an Annual Rights Fee."
- According to *Amendment One, Item #34, Section XA*, "...in the event that IMG secures any goods or services in-kind... the Annual Rights Fee shall be reduced..."
- *Amendment Three, Item #8* states, "The Agreement contains the entire agreement between the parties..."

Cause: A lack of a documented process to review payment reductions for compliance with the Agreement before they occur.

Effect: The potential risk of Annual Rights Fees not being paid in accordance with the Agreement.

Recommendations:

1. Compare the recurring Annual Rights Fee reductions to the Agreement and apply the necessary actions to maintain compliance.
2. Develop a process to review any future events affecting Annual Rights Fee payments to the Agreement before they occur. Consult with OGC if a possible need to execute an amendment or modification exists.

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Management Response:

Target Implementation Date: July 31, 2022.

Management will work with IMG to create a process to review and document the Annual Rights Fee deductions. Once the current deducts are documented, management will consult with OGC on how to request, review, and approve deductions and will make sure that any required documentation is completed per the guidance received from the OGC.

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2. Contractual game ticket and parking pass distributions are not reconciled.

Condition: We could not determine whether the actual distribution of game tickets and parking passes for the Sponsorship Program was consistent with the quantities stated in the Agreement. This was because the institutional policy requirement to perform a reconciliation to demonstrate inventory control is not being addressed.

Criteria:

- According to *Financial Services Manual, Section 8.10, Procedure #30*, “The department is responsible for the control of value-added inventory, for example, tickets...”
- *Amendment Two, Item #6, Section XIVA* states, “University agrees to provide... the following tickets in each Contract Year... along with parking pass designations.”

Cause: Management recorded the initial quantities and subsequent changes in the ticket management system but didn’t feel the performance of a reconciliation was necessary because they approved the changes.

Effect: The potential risk of not timely identifying inconsistencies between actual and approved distributions.

Recommendation: Develop a process to reconcile the actual game ticket and parking pass distributions to the Agreement to identify, document, and address any differences.

Management Response:

Target Implementation Date: December 31, 2021.

The ICA Ticket Office will create an internal process to reconcile the ticket and parking pass distributions for the sponsorship program. The process will include documentation of current allocations and an approval process for distribution changes. OGC will be consulted on the process to ensure addendums to the Agreement are documented as required.

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3. Keys were not issued to IMG in compliance with institutional guidelines.

Condition: We found management directly supplied athletic facility access keys to the on-site IMG General Manager for ongoing control and distribution to their employees. Although this helps mitigate the risk of unauthorized access, the issuance process was inconsistent with the guidelines prescribed by the Facilities Management (FM) Key Desk.

Criteria: The *University of Arizona Facilities Management Key Issuance & Return Guidelines* state, "University keys are issued to individuals, not departments."

Cause: According to management, the FM Key Desk guidelines changed after the keys were provided, and they have yet to determine how the changes affect their current process.

Effect: A potential risk to the ongoing safety and protection of UArizona students, personnel, equipment, and facilities being compromised.

Recommendation: Work with the FM Key Desk to determine and implement a course of action to achieve compliance with the current institutional guidelines.

Management Response:

Implemented.

Compliance with the FM Key Desk guidelines was achieved by management as of August 31, 2019, as part of the follow-up to the prior ICA Business Practices Audit. In accordance with the guidelines, all current and future IMG employees must be registered as a Designated Campus Colleague in order to gain access to Athletic facilities. All keys are now issued to IMG through the FM Key Desk in accordance with institutional policy.

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4. The process to identify coaches' endorsement conflicts is not defined.

Condition: Although management verbally communicates known coaches' conflicts to IMG, we could not confirm that the required comparison of ICA's related records to the current list of IMG sponsors occurred.

Criteria: According to *Amendment two, Item #3, Section E*, "The University grants... rights to seek endorsement opportunities for University's Coaches ...University will review for conflicts with IMG's then current list of exclusive Corporate Sponsors."

Cause: The reliance on verbal communications led to the comparison process not being defined and documented.

Effect: The potential risk of not identifying and addressing conflicts timely.

Recommendation: Develop a defined process to ensure the required review for coaches with conflicting personal commitments is documented. Include the necessary steps to address any identified conflicts during the application of the process.

Management Response:

Target Implementation Date: December 31, 2021.

Management will create a process to annually document the coaches' endorsements and the review for conflicts to comply with the Agreement and for communication to IMG.