

AOA Evaluation Worksheet

FY 2012 Renewal

INTRODUCTION

*The University of Miami is a very important partner of Jackson Memorial Hospital and the two organizations together have created an award winning clinical enterprise. The relationship between these parties is very complex as they are simultaneously partners in the provision of health care services at Jackson while the University of Miami is also operating a hospital that competes with Jackson in multiple service lines for funded patients. UM physicians have a very material impact on the utilization of resources, patient satisfaction levels, length of stay, and many other critical success factors at Jackson as the majority of clinical department chairs and a vast majority of the specialty physicians at Jackson are UM physicians. **In addition, Jackson purchases a wide variety of services from UM under the AOA agreement which totaled more than \$130 million dollars in FY 2011.***

*This relationship, as with all relationships in which a substantial amount of public money is allocated to a private institution, requires compliance with a host of applicable federal rules and regulations which are well beyond contractual sufficiency and other traditional “purchasing” type issues. Many of these regulations are complex and the consequences for non-compliance can be severe. Therefore, Jackson management and/or governance should require a specific legal opinion indicating that the proposed FY 2012 AOA is compliant with each of the relevant regulations prior to considering it for approval. This will help ensure that the AOA does not place either party at any additional and/or undue risk. **Securing an independent and objective legal opinion on a transaction of this magnitude is a very basic element of due diligence and the legal opinion should be provided along with the AOA document itself to governance prior to requesting consideration or approval.***

The AOA contains a comprehensive series of very material financial transactions with UM. It is the most financially significant service agreements in place at Jackson. Even though it is very detailed and complex, the FRB members should take the necessary steps to become familiar with the basic construct of the arrangement. ***The FRB should ensure that the AOA is compliant with appropriate federal and state rules and regulations, that management has a process to ensure that Jackson is receiving demonstrated value for each of the transactions in place, and that management has taken specific and documented steps to ensure that the AOA pricing for each of the services is competitive and "arms-length".*** Jackson should also document that it “needs” all of the services in the AOA (i.e. the 29.9 faculty UM FTE equivalents, \$362,146 average, under the Hospital Administrative Support section to assist “JMH’s executives’ efforts to manage the enterprise”). It is critical that each of these issues are fully addressed and documented prior to approval.

In the past, there has been a somewhat casual environment around the AOA (no external, independent legal opinion secured; the agreement approved retroactively; required reconciliations not performed timely; very little independent and objective documentation around the fair market value and/or the need for all of the services provided; etc.) which is not best practices for a relationship that annually transfers over \$130,000,000 of public funds to a private institution. The FY 2012 renewal is an opportunity to significantly improve the

AOA Evaluation Worksheet

FY 2012 Renewal

documentation and provisions included in the AOA and it appears that management is moving in that direction. However, any potential exposure for non-compliance with any relevant federal rules or regulations from prior years will not be eradicated by an improved process in FY 2012 and therefore a formal legal analysis of past practices may also be appropriate.

The FY 2012 AOA renewal also presents an opportunity to fully develop a series of expectations and protocols around the transfer of patients between UM and Jackson to ensure that no misunderstandings around this issue are present.

The attached questionnaire is designed to assist with the assessment of the proposed FY 2012 AOA with UM. *It is based primarily on the construct of the FY 2011 AOA since a draft of the FY 2012 has not yet been provided.* Once the FY 2012 version is published, additional questions may be formulated and some of the ones included herein may need to be adjusted or superseded. It is a guide consisting of potential questions that members of governance may wish to pose to management as part of their evaluation process. *It is only a guide and is not intended to replace the due diligence efforts that governance may choose to exercise on their own accord.*

AOA Evaluation Worksheet

FY 2012 Renewal

1	<i>Has management provided an overall financial analysis of the teaching programs at JMH which shows the total incremental revenue for participation in teaching programs (GME, IME, etc.) and the total incremental expenses associated with the provision of the teaching programs?</i> This is commonly referred to as a “value proposition” reporting tool.	YES	NO
Comments:			
2	<i>Has management provided a written formal legal opinion from a qualified and independent legal expert specifically noting that the FY 2012 AOA as presented to the FRB for consideration is fully compliant with all appropriate legal and regulatory guidelines?</i> This may include an analysis of Stark Guidelines, Fraud and Abuse and Self-Referral Regulations, Private Inurement, Restraint of Trade, and any other relevant provisions. The legal expert should also evaluate AOA activity for prior years and advise management and the FRB if there are any legal issues that generate concern and/or potential exposure.	YES	NO
Comments:			
3	<i>Has management provided specific and documented evidence that all purchased services from UM are priced competitively in an “arms-length” fashion in accordance with all applicable rules and regulations?</i> This includes all of the elements (volume and rate) of the payments for indigent care support, resident and fellow administration support, clinical instruction support, residency and fellow program administration, hospital administrative support, etc.	YES	NO
Comments:			
4	<i>Has management provided evidence of position descriptions for each of the UM FTE equivalents funded by Jackson through the AOA? Has management provided a listing of the actual UM employees/individuals being funded through the AOA?</i> For reference, Jackson paid for over	YES	NO

AOA Evaluation Worksheet

FY 2012 Renewal

	154 UM FTE equivalents in the FY 2011 AOA including Residency/Fellow Program Administrative Support (17.8 FTE's); Clinical Instruction Support (76.7 FTE's); Program Administration Support (29.42 FTE's); and Hospital Administrative Support (30.2 FTE's). A listing of the actual individuals represented by the "FTE equivalents", a position description for their duties, and an annual review of their performance is critical to demonstrating an "arm's length" transaction.		
Comments:			
5	<i>Has management provided an independent and objective analysis demonstrating the actual need for each of the UM FTE equivalents funded through the AOA?</i>	YES	NO
Comments:			
6	<i>Has management acquired a roster of the UM residents and fellows and is Jackson paying Clinical Instruction Support payments for only the residents and fellows assigned to Jackson?</i> This requires a change from the FY 2011 AOA structure where Jackson made Clinical Instruction Support payments (totaling \$22.9MM) for all UM residents and fellows even though only 587 of 898 were assigned to Jackson.	YES	NO
Comments:			
7	<i>Has management prepared a financial model to demonstrate the expected incremental revenue and the expected incremental expense for each of the initiatives being funded through the "recruiting support" provision of the AOA? For multi-year investments, has management prepared a financial model demonstrating the progress on the initiative to date and has it been demonstrated that further investment in the initiative meets due diligence standards?</i> For reference, Jackson's "recruiting support" payments were listed at \$11.7 MM in the FY 2011 AOA.	YES	NO
Comments:			

AOA Evaluation Worksheet

FY 2012 Renewal

8	<p><i>Has management prepared and provided a physician manpower plan to illustrate which physician specialties are underrepresented at Jackson based on community need to support physician recruiting subsidy payments? Has management evaluated alternative physician recruitment options?</i> Given the magnitude of the physician recruiting payments funded by Jackson, it would be expected to have a documented needs assessment for each specialty to demonstrate the need for as well as a comprehensive financial model to justify the level of the subsidy payments. It would also be expected that multiple options for physician recruitment were explored and documented.</p>	YES	NO
Comments:			
9	<p><i>Has management prepared and provided a business plan and performance reporting for the Neurology department investment that Jackson is committed to funding in the amount of \$3,000,000 per year from 2008 – 2012 (\$15,000,000 total)? Has the Board been provided interim financial, operational, and clinical results to evaluate Jackson’s \$12,000,000 Neurology department investment through FY 2011? Has Jackson verified that UM has made their required \$12,000,000 of investment through FY 2011 as they are also committed to \$15,000,000 from 2008 – 2012?</i> Given that Jackson is in the fourth year of a \$30,000,000 combined UM/Jackson Neurology program investment and appears to have spent \$12,000,000 of public funds on this through prior year AOA payments, it is basic due diligence to prepare an updated annual business plan and return on investment calculation on an investment of this magnitude.</p>	YES	NO
Comments:			
10	<p><i>Has UM provided comprehensive and current financial reporting to demonstrate the need for Jackson to subsidize “certain UM departments, divisions, or programs that are important to JMH’s operations or strategy, but that UM cannot cover their costs due to program specific restraints (e.g. poor payer mix, not enough high value RVU billings, or high salary cost clinicians)? Has Jackson documented their review of UM’s financial reporting for the subsidized UM departments noting its sufficiency?</i> For reference, the FY 2011 AOA included \$17,400,000 of UM departmental subsidy payments that included Jackson funded subsidies for the following UM departments:</p>	YES	NO

AOA Evaluation Worksheet

FY 2012 Renewal

	Anesthesiology - \$3,846,457; Neurology - \$1,140,000; Pediatrics - \$5,026,698; Pathology - \$2,000,000; and Surgery \$2,560,000. Given that these payments are additional to any other AOA payments and are not specifically for services to indigent care patients, a heightened sense of awareness should be placed on the appropriateness of these payments, the documentation and associated rationale for these payments, and on compliance with all applicable rules and regulations related to these payments.		
Comments:			
11	<i>Has management provided specific financial modeling demonstrating the underlying assumptions and rationale for the \$21,429,277 (FY 2011 amount) Transplant Purchased Services from UM under the AOA? Has management provided evidence of an annual validation of UM pricing by soliciting alternative price quotations from other qualified vendors as required in the FY 2011 AOA?</i>	YES	NO
Comments:			
12	<i>Has management provided evidence of an annual validation of UM pricing for the services provided by the Ann Bates Leach Eye Hospital as required by the FY 2011 AOA by soliciting alternate price quotations from other qualified vendors? For reference, payments under this section of the AOA for FY 2011 were scheduled at \$4,310,000.</i>	YES	NO
Comments:			
13	<i>Has management reconciled and settled up the patient activity and related AOA payments under the Ann Bates Leach Eye Hospital Section of the AOA for FY 2011 and any other open prior years?</i>	YES	NO
Comments:			
14	<i>Has management provided a comprehensive analysis of the sovereign immunity issue noting that the FY 2012 AOA reflects Jackson's portion</i>	YES	NO

AOA Evaluation Worksheet

FY 2012 Renewal

	<i>of UM's benefit of professional liability insurance savings among any other UM benefits of the sovereign immunity designation?</i>		
Comments:			
15	<i>Has management clearly articulated the specific UM operational savings initiatives that will be used to generate \$34 million of operational efficiencies at Jackson in FY 2012 that will be credited to UM in lieu of direct reductions of the AOA payments? Does the AOA agreement contain clear language on how these savings will be measured, when the savings will be realized, and what occurs in the event that they are not realized in FY 2012?</i>	YES	NO
Comments:			
16	<i>Does the FY 2012 AOA clearly document the \$18,000,000 of Jackson's direct payment reductions to UM for FY 2012? Does it document Jackson's efforts to secure additional reimbursement for the benefit of UM through federal and/or state matching programs (IGT), which may offset as much as \$12,000,000 of the \$18,000,000 direct reduction of payments to UM? Does Jackson share in this additional reimbursement to UM? After consideration of the additional reimbursement to UM, the actual net reduction in the direct AOA payments to UM will be approximately \$6,000,000, not \$18,000,000.</i>	YES	NO
Comments:			
17	<i>Has management incorporated specific and measurable quality and service objectives in the AOA addressing such critical factors as turnaround time for specialty consults, average length of stay, patient satisfaction levels, compliance with evidence based medicine guidelines (admission, discharge, and placement), compliance with formulary guidelines, and fulfillment of certain patient volume targets? Have current state measurements been provided for each objective and have specific FY 2012 targets been established? Have the consequences for non-compliance been clearly articulated?</i>	YES	NO
Comments:			

AOA Evaluation Worksheet

FY 2012 Renewal

18	In the FY 2011 AOA, Jackson allocated \$4,697,471 for the "Dean's Tax" which compensated UM for "the operations of the Dean's office including the salaries of the Dean, COO, Executive Dean for Clinical Affairs, as well as general management overhead, office staff and facilities such as the Calder Library". <i>Has management documented the services received and the related value received for these payments in FY 2011 to demonstrate the appropriateness and arms-length nature of the Dean Tax payments? If the "Dean Tax" is a component of the FY 2012 AOA, have the services provided and the related value of these services been documented sufficiently to support the transaction?</i>	YES	NO
Comments:			
19	<i>Does the FY 2012 AOA provide that a certain number of clinical department chairs will transition away from UM to be filled by Jackson or community physicians?</i>	YES	NO
Comments:			
20	<i>Does the new AOA provide a mechanism for Jackson to credential members of its Medical Staff without UM approval?</i>	YES	NO
Comments:			