

Vendor Contracts

Business Contracts Office



August 2019

**The University of Texas at Austin
Office of Internal Audits
UTA 2.302
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Institutional Audit Committee**

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This report has been distributed to Institutional Audit Committee members, the Legislative Budget Board, the State Auditor's Office, the Sunset Advisory Commission, the Governor's Office of Budget and Planning, and The University of Texas System Audit Office for distribution to the Audit, Compliance, and Management Review Committee of the Board of Regents.

**Vendor Contracts
Project Number: 17.017**



OFFICE OF INTERNAL AUDITS
THE UNIVERSITY OF TEXAS AT AUSTIN

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August 20, 2019

President Gregory L. Fenves
The University of Texas at Austin
Office of the President
P.O. Box T
Austin, Texas 78713

Dear President Fenves,

We have completed our audit of Vendor Contracts. Our scope included executed vendor contracts, not including purchase orders or revenue generating contracts, from September 1, 2015, to April 30, 2017.

We concluded that UT Austin contract approvals and expenditures were appropriate and complied with policies. Contracts were generally in compliance with policies and procedures; however, there are opportunities to ensure appropriate UT Austin staff are trained and to improve transparency reporting. Our audit report provides detailed observations and suggestions for improvement in the existing control structure.

We appreciate the cooperation and assistance of the Business Contracts Office throughout the audit and hope that the information presented herein is beneficial.

Sincerely,

A handwritten signature in blue ink that reads "Sandy Jansen".

Sandy Jansen, CIA, CCSA, CRMA
Chief Audit Executive

cc: Institutional Audit Committee Members
Mr. Darrell Bazzell, Senior Vice President and Chief Financial Officer
Mr. Jim Davis, Vice President for Legal Affairs
Ms. Tara Doolittle, Chief of Staff, Financial and Administrative Services
Mr. Carlos Martinez, Chief of Staff, Office of the President
Mr. William O'Hara, Chair, Institutional Audit Committee
Ms. Amy Reyna, Assistant to the Senior Vice President and CFO



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EXECUTIVE SUMMARY

Conclusion

UT Austin contract approvals and expenditures were appropriate and complied with policies. Contracts were generally in compliance with policies and procedures; however, there are opportunities to ensure appropriate UT Austin staff are aware of their responsibilities and to improve transparency reporting.

Summary of Recommendations¹

Internal Audits identified two notable issues leading to the following recommendations:

- Colleges, schools, and units (CSU) should designate specific individuals with contract and oversight responsibilities for all contracts initiated within the CSU;
- Appropriate UT Austin staff should be trained in the contract process; and
- All contracts should be posted on the university's website according to requirements and other guidance.

Management agrees with our observations and has provided corrective action plans that are expected to be implemented on or before January 31, 2019.

Audit Scope and Objective

The scope of this audit included executed vendor contracts, excluding purchase orders or revenue generating contracts, from September 1, 2015, to April 30, 2017. Audit objectives were to determine whether vendor contracts comply with applicable policies, guidelines, and laws; and whether expenditures for contracts are appropriate, properly calculated, and recorded.

Background Summary

The Business Contracts Office (BCO) reviewed, approved, and executed approximately 8,750 business contracts for UT Austin during FY18. The BCO employs five people and reports through the portfolio of the Senior Vice President and Chief Financial Officer. Select UT Austin employees have been granted signature authority to execute contracts, with specific limitations, on behalf of their departments and UT Austin.

Regardless of who executes the contract, departmental staff within colleges, schools, and units are responsible for all aspects of contract administration/management such as initiating contracts, fulfilling bidding and relevant procurement requirements, presenting a fully executed agreement to the BCO, verifying that the contractor or vendor complies with all terms and conditions of the agreement, and paying timely.

¹ Each issue has been ranked according to The University of Texas System Administration (UT System) Audit Issue Ranking guidelines. Please see the Appendix for ranking definitions.



BACKGROUND

The Business Contracts Office (BCO) reviewed, approved, and executed approximately 8,750 business contracts for The University of Texas at Austin (UT Austin) during FY18. The BCO employs five people and reports through the portfolio of the Senior Vice President and Chief Financial Officer. Select UT Austin employees have been granted signature authority to execute contracts, with specific limitations, on behalf of their departments and UT Austin.

Regardless of who executes the contract, departmental staff within colleges, schools, and units (CSU) are responsible for all aspects of contract administration/management. Department responsibilities include, but are not limited to, initiating contracts, fulfilling bidding and relevant procurement requirements, presenting a fully executed agreement to the BCO, verifying that the contractor or vendor complies with all terms and conditions of the agreement, and paying timely.

In February 2017, an outside consultant completed an assessment of UT Austin's BCO. Project objectives were: 1) assessing and identifying the options for structuring and improving the BCO functions to meet the university's contract management needs; and 2) evaluating current business contracting strategies, policies and processes, utilized technologies, organizational structure, and roles and responsibilities. Results stated that BCO has a strong understanding of the business contracting function and how to navigate requirements. Additionally, standard agreements have been well received and have improved the cycle time of the contracting process. The assessment noted that the BCO is unable to provide actionable contract management reporting to departments, has no visibility into available contracts, and no central repository that is accessible to end-users. The assessment also stated that UT Austin stakeholders are confused about the contracting process between the BCO, Purchasing Office, and Office of the Vice President for Legal Affairs, and there is a lack of campus training. In addition, it stated there is no single overarching flow that defines the contract process.

SCOPE, OBJECTIVES, AND PROCEDURES

The scope of this audit included executed vendor contracts, excluding purchase orders or revenue generating contracts, from September 1, 2015, to April 30, 2017. Specific audit objectives were to:

- Determine whether vendor contracts comply with applicable policies, guidelines, and laws; and
- Determine whether expenditures for contracts are appropriate, properly calculated, and recorded.



To achieve these objectives, Internal Audits:

- Reviewed and evaluated relevant policies and procedures;
- Inspected a sample of contracts for proper approvals according to designated limits of authority;
- Examined transparency reporting;
- Inspected a sample of contracts for detailed testing of expenditures and other compliance requirements; and
- Surveyed departments via questionnaire and assessed responses related to processes such as initiation, monitoring, and training.

AUDIT RESULTS

To address certain issues identified in the consultant's assessment, and to comply with legislative requirements, the BCO completed the *Contract Management Handbook* in October 2017 which is located on the home page of the BCO's website. In addition, UT Austin has initiated the purchase of a central database for contracts to add visibility into available contracts and aid in transparency reporting.

Contract approvals and expenditures were appropriate and complied with policies; however, there are opportunities to ensure appropriate UT Austin staff are aware of their responsibilities and to improve transparency reporting as presented in the following recommendations.

These issues have been ranked according to The University of Texas System Administration (UT System) Audit Issue Ranking guidelines. Please see the Appendix for ranking definitions.

Contract Process Training

Audit Issue Ranking: High

UT Austin does not have a formal training and education program for individuals with contracting responsibilities. Responses to our survey on training indicate that people involved in the contract process are not receiving training, or training is sporadic. In addition, anyone at the university can initiate a contract, and UT Austin CSUs are not required to formally designate an individual responsible for all contracts within the CSU. This structure limits the BCOs ability to transfer knowledge to appropriate people which could create inefficiency, inconsistency, noncompliance, possible overpayments, and confusion related to the contract process.

Texas Education Code Section 51.9337(b)(5) requires the board of regents of an institution of higher education to establish for each institution under the management and control of the board "training for officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, including training in



ethics, selection of appropriate procurement methods, and information resources purchasing technologies.”

UT System Policy 156 (UTS 156): Purchaser and Certain Contract Negotiator Training and Certification addresses *Texas Education Code 51.9337(b)(5)*. UTS 156 provides guidelines and requirements for the development and implementation of a training and certification plan to ensure that each institution is staffed with qualified purchasing and contracting professionals. Section 3 requires each institution to establish a training and certification plan for applicable staff. Section 4.3 states “at a minimum, the plan must contain the following:

- a) Identification of personnel who are required to obtain purchasing, contract negotiation training and/or certification. Purchasing personnel training and certification levels shall be classified by the type of purchase (e.g., formal bids, informal quotes, small dollar procurements) and level of commitment authority;
- b) Training requirements for the identified personnel classifications. Purchaser training requirements shall identify the subject matter and the minimum hours of training required; and
- c) Certification requirements for the identified personnel classifications.”

Section 5 of *UTS 156* lists minimum core training curriculum, such as ethics; applicable laws, rules, and regulations; the role of the buyer and the buyer’s fiduciary responsibility; documentation and records management; applicable policies and procedures; contract administration; and principles of “best value” procurement.

Recommendation 1: University management should require CSUs to formally designate a specific individual to be the liaison to the BCO and be responsible for certain contract and oversight duties for all contracts initiated within the CSU. The detailed responsibilities for this role should be defined by BCO management and communicated to the designated individuals. This structure will help ensure all contracts within a CSU follow the expectations set forth in the university’s *Contract Management Handbook*² and comply with relevant policies and reporting requirements.

Management’s Response and Corrective Action Plan: Management agrees with the recommendation and is developing implementation plans.

Responsible Person: Vice President for Legal Affairs
Planned Implementation Date: January 31, 2020

Post Audit Review: March 2020

² <https://businesscontracts.utexas.edu/contract-management-handbook>



Recommendation 2: The BCO should provide recurring training to UT Austin staff involved in contracting through a formal training program and work with the designated contract liaisons in CSUs to ensure appropriate staff are trained. Training should include pre-purchase requirements, post-execution monitoring, contract close-out procedures, ethics and conflict of interest, and transparency reporting requirements. The BCO should also provide thorough and easy-to-follow guidance for departments to navigate the contract process and communicate updates and changes with regularity.

Management's Response and Corrective Action Plan: Management agrees with the recommendation and is developing implementation plans.

Responsible Person: Vice President for Legal Affairs

Planned Implementation Date: January 31, 2020

Post Audit Review: March 2020

Transparency Reporting

Audit Issue Ranking: High

UT Austin is not meeting contract transparency reporting requirements per Texas Government Code. Several times during this audit, the posted Contract Transparency Report was not current; one instance showed no postings in the previous four months. In addition, testing revealed that 4 (25%) of 16 contracts sampled were not posted (3 executed by UT Austin departmental delegated signers and 1 executed by the BCO) and 3 contracts that were posted did not include required contract details.

The system in place for posting contracts executed by the BCO did not always work as intended which affected the completeness and regularity of posting. In addition, the posting of department contracts executed with delegated signature authority is a manual process and is not happening consistently across campus. Finally, standards and guidance are not documented for the specific contract types that should be posted or excluded from posting. A new central database system, Total Contract Manager, may assist in posting contracts. When contracts executed on behalf of UT Austin are not posted to the university website in a timely manner, there is an increased risk for reputational damage and legislative noncompliance.

According to *Texas Government Code 2261.253(a)*, for each contract for the purchase of goods or services from a private vendor, each state agency shall post each contract the agency enters into and other details related to the contract on its Internet website until the contract expires or is completed. Section 2261.253 further details applicability, conditions, and exclusions.



Recommendation 3: The BCO should ensure that all contracts are posted on the university website in accordance with *Texas Government Code 2261.253* and guidance provided by UT System Administration. In addition, the BCO should document the specific contract types that are determined to be included on transparency reports so all are aware of posting requirements.

Including all UT Austin contracts in the newly acquired central database system and working with the designated contract liaisons in CSUs could help ensure accurate transparency reporting.

Management's Response and Corrective Action Plan: Management agrees with the recommendation and is developing implementation plans.

Responsible Person: Vice President for Legal Affairs
Planned Implementation Date: January 31, 2020

Post Audit Review: March 2020

CONCLUSION

UT Austin contract approvals and expenditures were appropriate and complied with policies. Contracts were generally in compliance with policies and procedures; however, there are opportunities to ensure appropriate UT Austin staff are aware of their responsibilities and to improve transparency reporting.

In accordance with directives from The University of Texas System Board of Regents, the Office of Internal Audits will perform follow-up procedures to confirm that audit recommendations have been implemented.



APPENDIX

Audit Issue Ranking

Audit issues are ranked according to the following definitions, consistent with UT System Audit Office guidance. These determinations are based on overall risk to UT System, UT Austin, and/or the individual college/school/unit if the issues are left uncorrected. These audit issues and rankings are reported to UT System directly.

- **Priority** – A Priority Issue is an issue that, if not addressed immediately, has a high probability to directly impact achievement of a strategic or important operational objective of UT Austin or the UT System as a whole.
- **High** – An issue that is considered to have a medium to high probability of adverse effects to UT Austin either as a whole or to a significant college/school/unit level.
- **Medium** – An issue that is considered to have a low to medium probability of adverse effects to UT Austin either as a whole or to a college/school/unit level.
- **Low** – An issue that is considered to have minimal probability of adverse effects to UT Austin either as a whole or to a college/school/unit level. Issues with a ranking of “Low” are reported verbally to the unit and are not included in the final report.