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**THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY
OFFICE OF AUDITS & CONSULTING SERVICES**

Contracts Administration

Report No. 17-01

October 14, 2016

Dr. Guy Bailey, President
The University of Texas Rio Grande Valley
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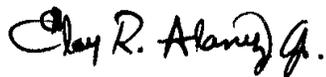
Dear Dr. Bailey,

As part of our fiscal year 2016 Audit Plan, we have completed an audit of Contracts Administration for The University of Texas Rio Grande Valley (UTRGV). The objective of this audit was to evaluate whether adequate procedures and controls were established to provide reasonable assurance that University procurement contracts are managed in accordance with applicable requirements. The scope of this audit included UTRGV procurement contracts that were signed during September 1, 2015 through January 31, 2016, using current policies and procedures.

Overall, we concluded that adequate procedures and controls over procurement contract administration as well as good contract management best practices exist. However, we identified opportunities for improvement. The detailed report is attached for your review.

We appreciate the courtesy and cooperation received from management and staff during our audit.

Sincerely,



Eloy R. Alaniz, Jr., CPA, CIA, CISA
Chief Audit Executive

cc: Rick Anderson, EVP Finance and Administration
UTRGV Internal Audit Committee
UT System Audit Office
Governor's Office of Budget, Planning and Policy
Sunset Advisory Commission
State Auditor's Office
Legislative Budget Board

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EXECUTIVE SUMMARY

The Contracts Office supports educational and research missions of The University of Texas Rio Grande Valley, (UTRGV) by facilitating the execution of procurement related contracts while ensuring compliance with state and federal laws, UT System Board of Regents' Rules and Regulations, and UTRGV policies and procedures.

The objective of this audit was to evaluate whether adequate procedures and controls were established to provide reasonable assurance that University procurement contracts are managed in accordance with applicable requirements.

Our scope included UTRGV procurement contracts that were signed during the initial five months of fiscal year 2016 (September 1, 2015 through January 31, 2016) using current policies and procedures.

Based on the audit work performed, we concluded that overall, adequate procedures and controls over procurement contract administration as well as good contract management best practices exist. However, we identified opportunities for improvement. We observed the following:

- Contract Administration Forms, which indicate the responsibilities for monitoring and overseeing the contract, were not updated for contracts assigned to UTRGV from the legacy institutions. Four of the ten contracts reviewed were not signed by the contract administrators.
- Notification of contract closeout by the contract administrator was not a contract administration process.
- Certain contracts with risks identified by the UT System Office of General Counsel did not include adequate documentation and communication of the risks to executive management.

BACKGROUND

Contractual obligations are derived from all of The University of Texas Rio Grande Valley (UTRGV) contracts including procurement contracts, revenue generating contracts, auxiliary services contracts, and sponsored research and related agreements. The processing of these contracts is not completely centralized. Procurement related contracts, including contracts for the School of Medicine, are processed by the Contracts Office within the Procurement Office. The Campus Auxiliary Services Office handles the auxiliary services contracts in conjunction with the Contracts Office.

The Procurement Office is organized into four operating areas which include purchasing, accounts payable, shipping and receiving and travel services. The office reports to the Office of Finance & Public Policy, who reports to the Executive Vice President for Finance and Administration. The purchasing function focuses on administering the University's procurement contracts, procurement card program, and historically underutilized business (HUB) and small business program. Within the purchasing area is the Contracts Office that assists departments in the review and execution of procurement related contracts. The office is responsible for developing adequate procedures and controls to ensure that University contracts are managed in accordance with applicable standards.

According to various best practices manuals and purchasing guides developed by the Office of Federal Procurement, the Texas Comptroller, and other organizations, good contract administration practices involve the following phases:

1. Objectively selecting and approving the best qualified contracts;
2. Establishing contractor payment methodologies that ensure that the prices are fair and reasonable;
3. Holding contractors accountable for specific performance; and
4. Monitoring good contracting processes.

The administration and review processes over contracts are guided by UT System requirements. Several policies and board rules help UT Institutions determine when additional review by the UT System Office of General Counsel (OGC) is required and when UT Institutions may execute contracts without additional oversight. UT System has provided contract review procedures that include ten steps that each UT institution is required to complete to help determine if additional review by OGC is required. Further guidance has also been provided to help determine when contracts are considered a Special Procedure Contract, or when thresholds for spending have been reached that may trigger automatic review by OGC or the Board of Regents. Each institution has been delegated autonomous authority to execute agreements up to a certain dollar amount, as determined by UT System.

At the February 11-12, 2015 UT System Board of Regent’s meeting, the Board delegated authority to the Chancellor or his delegate to approve certain contracts for UTRGV, “with a value of less than \$5 million, for UTRGV that would otherwise require approval by the Board of Regents pursuant to the Regents’ *Rules and Regulation*, Rule 10501, Delegation to Act on Behalf of the Board”. This delegation of authority was to “facilitate the expeditious and efficient handling of contracts needed to establish and begin operations of UTRGV”.

AUDIT OBJECTIVE

The objective of the audit was to evaluate whether adequate procedures and controls were established to provide reasonable assurance that University procurement contracts are managed in accordance with applicable requirements.

AUDIT SCOPE & METHODOLOGY

The audit scope included UTRGV contracts that were signed during the initial five months of fiscal year (FY) 2016 (September 1, 2015 through January 31, 2016) using current policies and procedures. A total of ten contracts were reviewed, which covered 1) Software Licenses, 2) Services, 3) Construction, 4) Inter-agency/Inter-local, 5) Professional Services, and 6) Space Leases.

To accomplish our objectives, we performed the following:

- We interviewed the Procurement Office staff involved in the contracts coordination and administration efforts and observed documentation to gain an understanding of current operations and processes, and identifying signature authority over contracts.
- We reviewed UT System’s OGC website on contracts processing and researched Texas Law and UT rules, regulations, policies and procedures pertaining to contracts.
- We obtained a listing of UTRGV contracts signed within the audit scope and selected a sample of ten contracts based on dollar amount and type of contract. This represented 73% of the total dollar value of the population.
- We tested the contracts to determine that the contract process complied with UTS 145, *Processing of Contracts*.
- We tested the contracts on processes and procedures related to the four phases of “good contract management” which include selection and approval, payment methodologies and monitoring and oversight.
- We identified signature authority over the contracts and verified the proper delegations of authority were followed.

Our audit was conducted in accordance with guidelines set forth in The University of Texas System’s Policies UTS 129 and the Institute of Internal Auditors’ *International Standards for the*

Professional Practice of Internal Auditing (Standards). The *Standards* set criteria for internal audit departments in the areas of independence, professional proficiency, scope and performance of audit work, and management of the internal auditing department. UTS 129 requires that we adhere to those *Standards*.

AUDIT RESULTS

Selection & Approval

The selection process for contracts involves receiving bids or proposals and applying objective proposal evaluation criteria to select the best supplier. It includes contract negotiations between the buyer and the seller in attempting to come to an agreement on all aspects of the contract. Most contracts involve procurement methods such as a Request for Proposal, Request for Qualifications, or Request for Offer, which allows for negotiation rather than a formal bid.

We verified that an objective evaluation criteria process was in place for selecting contractors. As such, we ensured that sufficient and adequate documentation was maintained to support that such a process was in place and working as intended. We determined all ten contracts tested had adequate documentation, and contractors were evaluated and selected appropriately. In one of our samples, a separate Exclusive Acquisition Justification Form was required to be completed and uploaded into the iShop system, the procurement system used to process purchases. The form was appropriately completed and uploaded; however, we noted that most, if not all, of the information on that form was duplicated on the Purchase Contract Request form seeded within iShop.

Recommendation:

1. The Chief Procurement Officer should consider eliminating the Exclusive Acquisition Justification Form since most of the information is requested during completion of the Purchase Contract Request form in iShop.

Management Response:

1. The Exclusive Acquisition Justification Form is a Senate Bill 20 requirement. It has been a top priority of the Procurement Office to create the Exclusive Acquisition Justification Form and approval workflow as an iShop form. The Business Analysts have encountered delays in processing this request due to limited resources, but we have been assured that process is near completion.

Implementation Date:

October 17, 2016

The Board of Regents delegates to the Chancellor or the President of an institution authority to execute and deliver on behalf of the Board contracts of any kind or nature so long as those contracts conform to the requirements of OGC. The President is then permitted to formally delegate the power to another employee in the form of a delegation memorandum.

UT System has established criterion to help UT Institutions determine when a contract must be sent to OGC for review. The Executive Vice Chancellor for Business Affairs and Vice Chancellor and General Counsel established contract value thresholds for each UT Institution as part of the criterion to be used to determine when a review by OGC is required. The threshold for UTRGV contracts is \$500,000.

Due to the transition from legacy institutions to UTRGV, the Contracts Office was responsible for assigning hundreds of contracts from the legacy institutions to UTRGV. The Contracts Office ensured that contracts meeting the threshold for additional review were sent to OGC via excel spreadsheets that organized the list of contracts to be assigned.

We determined all ten contracts tested were approved by the appropriate authorized individuals.

Payment Methodologies

Establishing proper contract payment methodologies is an important part of ensuring sound contract administration procedures. Payments should not be made prior to certain steps taking place within the contract administration process. Additionally, contractor offered discounts should be taken advantage of whenever possible.

We determined that all payments for contracts tested were appropriately paid after the contract was signed and payments were consistent with the amounts specified in the contract. We noted invoices for one of the ten contracts tested, were paid late. However, the contractor did not impose any late fees or interest.

Monitoring & Oversight

It is important to ensure that contractors are held accountable for specific performance and that contract terms and conditions are followed. Individuals should be assigned the responsibility for monitoring contracts and provided clear guidance on guidelines, policies, and procedures. The Contracts Office requires a Contract Administration Form be completed for all procurement contracts.

We identified the individuals responsible for contractor oversight (e.g. contract administrators) and verified that they were provided clear guidance on their responsibility to hold contractors accountable for performance and for contract closeout.

We noted that Contract Administration Forms were not updated for contracts assigned to UTRGV from legacy institutions. The forms were not updated with the new information for UTRGV, such as new contract administrators, department names, contract number, signatures and dates signed. The legacy institutions assigned all their contracts and agreements to UTRGV, and some of the agreements were amendments to the original contracts. If there was a form for a legacy institution contract, it was assumed that all the information was the same. However, due to the new university being created with new positions and departments, some of the contract administrators were different. The contract administrators were not formally aware of their responsibilities for monitoring contracts and contract closeout. We noted that four of the 10 contracts tested were not updated to include the new contract administrators. Additionally, four Contract Administration Forms were not signed by the contract administrators. However, all 10 contracts tested had evidence such as approvals from contract administrators for paid invoices confirming that the contractor provided the services and/or products specified in the contract.

While none of these contracts tested were closed out during the fieldwork phase of the audit, we inquired about the contracts closeout process. We determined from the Associate Director of Procurement that there is no confirmation from the contract administrator when the contract has been closed out.

Recommendation:

2. The Chief Procurement Officer should ensure that all contracts are formally assigned to a contract administrator to clearly give responsibility for proper monitoring of the contract.

Management Response:

2. The action plan to address this is to review the contracts that were assigned from legacy institutions and update the contract administrators as needed.

Implementation Date:

December 1, 2016

Recommendation:

3. The Chief Procurement Officer should consider implementing a process to obtain confirmation from the contract administrator when a contract is completed and all contract obligations have been met.

Management Response:

3. This type of contract administration is available as an optional feature in the electronic procurement system iShop. Chief Procurement Officer must secure funding to purchase this optional feature.

Implementation Date:

January 1, 2018, pending funding approval.

Recommendation:

4. The Chief Procurement Officer should consider eliminating the Contract Administration Form and embed the requirements for contract administration within the Business Purchase Contract Request form in the iShop system to facilitate the assignment of responsibility.

Management Response:

4. This type of contract administration is available as an optional feature in the electronic procurement system iShop. Chief Procurement Officer must secure funding to purchase this optional feature.

Implementation Date:

January 1, 2018, pending funding approval.

We also noted certain contracts with risks identified by OGC did not include adequate documentation and communication of the risks to executive management.

Recommendation:

5. The Chief Procurement Officer should develop a process to ensure high risks identified by OGC are documented and communicated to the Contract Administrator and executive management before a business decision is finalized for the contract.

Management Response:

5. A process will be developed to ensure that high risk contracts are documented to identify those risk to the contract administrators and have them document the business reasons for making the decision to continue with the contract.

Implementation Date:

December 1, 2016

During the 84th Legislative session, Texas Senate Bill 20 passed in 2015 to increase accountability and transparency in state agency contracting processes. The provisions of the bill require the public posting of contracts and procurement activities for state agencies per guidelines from the Texas Comptroller of Public Accounts. Based on our testing, we determined the Procurement Office's "Purchase and Contrast Transparency" monthly reports posted on their web site for procurement purchases included the required purchases per Senate Bill 20, except for payments made to other UT System institutions. However, the Procurement Office is now including these types of payments in the monthly transparency reports.

CONCLUSION

Based on the audit work performed, we concluded that overall, adequate procedures and controls over procurement contract administration as well as good contract management best practices exist. However, we identified opportunities for improvement.

Norma L. Ramos

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Director

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