

Executive Vice Chancellor
for Business Affairs

MEMORANDUM

Scott C. Kelley
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December 16, 2015

TO: UT System Chief Business Officers

FROM: Scott C. Kelley *Scott C. Kelley*

SUBJECT: Revisions to September 23, 2015 Memorandum related to Procurement

On September 23, 2015, I issued a memo addressing questions about how UT System institutions should operate in light of recent procurement and contracting legislation and my May 2015 report to the UT System Board of Regents on group purchasing organizations (GPOs) and sole source purchasing. Today, I'm providing the following revisions and clarifications regarding topics addressed in that memo.

1. **Spend Thresholds and Federal Grants.** Item 1.2 of the September 23 memo recommends that all UT System institutions adopt specific spend thresholds for particular procurement activities. My memo directs that no competitive procurement should be required when spend over the total potential contract period is estimated to be less than \$15,000. This is not intended, however, to override any law or regulation that may require a competitive procurement when federal funds are used to purchase the related goods and services, even when the estimated spend is less than \$15,000. Please ensure compliance with such laws or regulations. I have asked UT System OGC to provide separate guidance to local procurement staff on this subject, in coordination with local legal advisors.
2. **Notification of GPO-Procured Contracts of \$10 Million or More.** Items 3.1 and 3.2(e) of the September 23 memo ask that you notify me in writing of any proposed contract procured through a GPO or state agency that involves an anticipated spend of \$10 million or more.

Effective immediately, I am rescinding this instruction, because the other notifications referenced elsewhere in this memo will be sufficient.

3. **Interim Limitation on Use of GPOs/State Agencies.** Item 3.1(a) of my September 23 memo indicated that, when total spend under a contract is anticipated to exceed \$50,000, any state agency or GPO may be used on an interim basis for the procurement. On further consideration, please limit, effective immediately, your use of GPOs (and state agencies performing GPO functions) to only the Alliance, DIR, E&I Cooperative Services, Premier and TxMAS, unless and until any different guidance emerges from the pending GPO accreditation program. If you believe there are

exceptional circumstances justifying use of another GPO or state agency (or a particular contract procured by another GPO/state agency) in the interim, please contact me directly to discuss.

4. **Replacement of ACMR Review Process.** Item 3.2 of the September 23 memo indicates that, if a contract signed on or after November 1, 2015 was procured via a state agency or GPO, and spend is anticipated to exceed a specified threshold, an institution should submit a summary of the contract to the Audit, Compliance and Management Review (ACMR) committee.

Effective immediately, please provide each such summary instead to me (via lloyd@utsystem.edu). The form to be used for this purpose is attached to this memo. I will forward the summary to the UT System Deputy Chancellor, the General Counsel to the Board of Regents, and the UT System Chief Audit Executive for their determination, within two business days, of whether the contract should be submitted to the entire Board. If none of these recipients raises a question within this time period about the contract or asks that it be submitted to the Board for review and approval, no Board review of the contract will be required.

I recognize that institutions have expressed concern about possible delays in operating this review process. To address this, the UT System Office of Business Affairs will notify the submitting institution of precisely when the contract summary was forwarded for review, and when the review period will expire. For example, if Business Affairs forwards the institution's contract summary to the review team on a Tuesday at 11:59 AM, Business Affairs will notify the institution by email that the two business-day review period will expire on Thursday at 11:58 AM. If the institution is not notified of any contract concern before this deadline, the institution may move forward with the contract, without Board review. If a concern is raised, I will reach out to the institution to discuss the concern, how best to address it, and how any required Board review will occur.

5. **Revised Spend Thresholds.** My previous guidance indicated that any contract procured by a state agency or GPO other than the Alliance or Premier with total contract spend exceeding \$1 million should be submitted to the ACMR. Effective immediately, please utilize the following revised institutional spend thresholds to determine whether any contract signed on or after November 1, 2015 and procured by the Alliance, Premier, DIR, E&I, or TxMAS should be reviewed under the replacement process described in Item 4 above:

- \$1.0 million for UTPB, UTRGV, UTT, UTHSCT;
- \$2.0 million for UTA, UTD, UTEP, UTSA;
- \$3.0 million for UTAUS, UTHSCH, UTHSCSA, UTMB, UTSWMC, UT System; and
- \$5.0 million for UTMDACC.

These revised spend thresholds also should be used in applying Item 3.1(b)(2) of the September 23 memo, which requires comparison of multiple contract awards procured by the Premier GPO when contract spend exceeds the applicable threshold.

6. **Quarterly Board Reports.** Item 3.2 of the September 23 memo requires quarterly reports to the Board of all procurements made in the prior three months that exceed specified thresholds and utilize a state agency/GPO purchasing program. Effective immediately, the UT System Office of

Business Affairs will handle these quarterly reports, based on each institution's submission of individual contract summaries under Items 4 and 5 above.

7. **LBB Attestation Letters**. Please arrange for me to be copied on all attestation letters that your institution submits to the Legislative Budget Board (LBB) under Section 7.12, Article IX of the Appropriations Bill Rider.

8. **Template for Contract Management Handbook**. In a recent meeting, the Board of Regents adopted a rule requiring each UT System institution to adopt a Contract Management Handbook, in compliance with Senate Bill 20. A model template for the Handbook has been drafted by UT System OGC, with contributions from many individuals across System. The model template will be distributed in the next few weeks, and I urge each institution to use this template to develop and adopt its own version, tailored as necessary to account for local structure and processes, consistent with applicable law. After each institution has drafted its own Handbook, please submit the institution's draft Handbook to System OGC for final review.

If you have any questions about any of the above guidance, please feel free to reach out to me.

SCK:lml

Attachment: GPO Contract Submittal Form

cc: UT System Chief Procurement Officers

UT System Chief Legal Officers

UT System Administration Department Heads

UT System Administration Department Contract Administrators