



INTERNAL AUDIT

Procurement Contract Audit

R-20-01

July 8, 2021

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Rating Matrix

Descriptor	Guide
High	Matters considered being fundamental to the maintenance of internal control or good corporate governance. These matters should be subject to agreed remedial action within three months.
Medium	Matters considered being important to the maintenance of internal control or good corporate governance. These matters should be subject to agreed remedial action within six months.
Low	Matters considered being of minor importance to the maintenance of internal control or good corporate governance or that represents an opportunity for improving the efficiency of existing processes. These matters should be subject to agreed remedial action and further evaluation within twelve months.

Distribution List

Title	For Action ¹	For Information	Reviewed prior to release
Executive Director		*	*
Chief Financial Officer	*		
Chief Enterprise Strategy Officer		*	
Director of Supply Chain		*	
Procurement Manager	*		
Records Manager		*	

¹For Action indicates that a person is responsible, either directly or indirectly depending on their role in the process, for addressing an audit finding.

Executive Summary

Introduction

In conjunction with the Audit Committee, Internal Audit (IA) developed a risk-based annual audit plan. This audit was conducted in accordance with the International Standards for the Professional Practice of Internal Audit, published by the Institute for Internal Auditors (IIA).

IA was directed by the Audit Committee to perform an audit to determine if controls over Procurement Contracts are designed adequately and operating effectively to ensure compliance with federal regulations, state laws, and internal policies and procedures as well as to support the achievement of management objectives.

Background and Overview

The UTA Procurement department is a steward of public funds and is responsible to ensure the Agency is compliant with State of Utah Procurement code and the Federal Transit Administration's (FTA) procurement Circular and Super-circular regulations, as well as any other applicable laws and regulations.

The Procurement department is responsible to conduct all procurements of goods or services over the micro-purchase limit of \$3,500. The department is staffed with 1 manager and 11 employees. In 2019, the department added a new position, and had a substantial turnover in the department, which resulted in 5 of the departments' 11 staff positions requiring training during 2019. The team also navigated a significant change in contract approval process to the Board of Trustees, as well as new legal counsel from the Utah Attorney General's office.

The Procurement department buyers are responsible to solicit, negotiate, execute, and maintain records of all procurement contracts made on behalf of the Agency. The agency is subject to both State and Federal audits of procurement contracts and records. Every three years the FTA performs a Triennial Review, which includes evaluation of UTA's compliance with best procurement practices. There were no findings regarding procurement in the 2013, 2016, and 2019 Triennial Reviews.

Objectives and Scope

The period of the preliminary assessment was February 12, 2020, through April 22, 2020, with the Preliminary Assessment report issued on May 18, 2020. The audit fieldwork commenced on May 12, 2021 and concluded on July 8, 2021.

The primary areas of focus were:

- Governance
- Identifying the Need for a Contract
- Vendor Selection
- Contract Review and Approval
- Contract Documentation and Retention
- Contract Database
- Contract Amendments

IA reviewed internal policies and procedures, interviewed department managers and staff, and conducted thorough review of procurement files to understand the processes and internal controls relevant to the procurement process and management.

Summary

IA determined that the Procurement process has improved since the Preliminary Assessment to ensure procurements are supported and documented. We noted the following three areas that still require improvement:

- Vendor Responsibility check, Due Diligence or System for Award Management (SAM) review of vendors is not always conducted or documented.
- Laserfiche contract numbers are used to identify the contracts and amendments to contracts, however this is not possible due to empty contract folders.
- The required Procurement History documents lack dates. Additionally, in 39% of the sample, the history was not complete.

Additionally, the preliminary assessment identified that the department's standard operating procedure (SOP) was not always followed, and it did not provide enough direction in some areas. The department is in the process of implementing a revised SOP. During the audit phase, Internal Audit conducted testing on the draft SOPs documented requirements and found no issues, noting the SOP has not been finalized as of the writing of this report. The approval of the SOP is awaiting the revised Procurement Contracting Policy and Contract Authority Policy prior to be presented to the Board of Trustees for approval. Once those policies are approved, the SOPs can be formally adopted.

Internal Audit would like to thank management and staff for their cooperation and assistance during the audit.

Criteria:

FTA C 4220.1F VII and FTA Best Practices Procurement & Lessons Learned Manual includes the following guidance:

- 3.a.2. states: FTA expects the recipient to include adequate documentation in its project files of the facts, events, negotiations, applicable laws, and a legal evaluation of the likelihood of success in any potential litigation involving the dispute as may be needed to justify FTA’s concurrence in any compromise or settlement, should FTA concurrence become necessary.
- 4.9 FTA expects each recipient to have appropriate written protest procedures, as part of its requirement to maintain or acquire adequate technical capacity to implement the project.
- Recommends using checklist to ensure required documents and process have been followed.

Preliminary Assessment Condition Summary:

Contract files

- IA reviewed 6 renewed contracts and 6 contracts executed during the audit period. The review concluded 5 of the 6 contract files did not contain all required documents.
- Practices did not ensure the contract or supporting documents were available in Laserfiche.

Protests

Protests were not logged, nor a management report available to monitor protests received, which created the risk that not all protests were identified and/or satisfactorily addressed.

Contract management

- The Procurement Department was unable to reconcile contract data on the shared drive with the contract data in Laserfiche.
- Electronic amendments to contracts were not stored together, nor did the original contract file document an amendment to the contract.

Audit Condition Details:

Contract file Deficiencies:

Internal Audit reviewed documentation for 23 procurements. The result of the review identified one high risk finding and one low risk finding:

- High Risk: 4 of the 23 procurement files did not contain evidence of a due diligence review of the vendor. Documentation of the System for Award Management (SAM) check, Responsibility review, or vendor references was not available.
- Low Risk: The required Procurement History document lacked dates of events, and in many instances the history was not complete. Specifically, 9 of the 23 procurement files did not include the Procurement History document or the document was not complete. However, all relevant procurement supporting documents were available.

Protest Procedures – Remediated

The Procurement department implemented a new Protest process. The process directs all protest to a monitored email address. The email account is monitored by Attorney General’s Office and the Procurement Department. All emails are archived and managed by IT department.

Contract Management

Management utilizes reports generated by Laserfiche. Laserfiche contract numbers are used to identify the contracts and amendments to contracts. However, the process is not efficient nor effective. Due to process design, and redesign, Laserfiche houses empty contract folders and mis-labeled amendment folders making navigation and location of a specific contract difficult despite a search engine within the Laserfiche desktop client.

Inherent Risk – Why These Matters are Important:

- In the event of a protest, inquiries, audits, or legal issues, proper documentation may not be readily available, including the final executed contract signed by both parties.
- UTA may have difficulty demonstrating it followed its own procedures with incomplete, unlocatable or missing files.
- Protests may not be addressed in a consistent manner, allowing for perceived favoritism.
- Management information may not be reliable if data is not complete on Laserfiche.
- If executed contracts have unknown amendments, transactions may not be executed in-line with the contract or amendments.

Recommendations:

IA recommends:

- Management train procurement staff on the importance of a due diligence review of awarded vendors and the effective way to document the events of a procurement.
- Due diligence information, including ownership of a vendor or contractor, should be made available to the Board Office when submitting a contract to the Board of Trustees for approval, to strengthen the process to verify no Conflicts of Interest exist.
- Vendors should be made aware of the UTA Ethics Policy and Ethics Hotline where they can report violations of our Ethics policy for investigation.
- Management (1) conducts a purge of empty Laserfiche contract files and (2) rename mis-labeled contract files to align with current contract naming convention.

Management Response and Action Plan:

Management’s Response

Target Completion Date:

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Criteria:

- *The Committee of Sponsoring Organizations (COSO)* defines that control activities should be deployed through policies that establish what is expected and in procedures that put policies in action.
- *Board Policy 2.1.II(G)(1):*
G. Internal and External Controls
 1. The Authority will maintain a system of internal controls to safeguard its assets against loss, check the accuracy and reliability of its accounting data, and promote operational efficiency.
- *Board Policy 2.2.III(A)(1) & (2):*
 1. *The Board of Trustees designates the Chief Financial Officer as the Authority's Chief Procurement Officer.*
 2. *The Chief Procurement Officer will establish policies and procedures to ensure the Authority's procurements are carried out in compliance with applicable state and federal laws and the Authority's policies.*
- *UTA Ethics Policy 1.1.11* defines conflicts of interest as “a personal or economic interest, outside employment, outside interest or other circumstance or relationship that impairs an employee’s ability to discharge his or her duties in a legal and ethical manner consistent with the best interests of UTA.”

Preliminary Assessment Condition Summary:

- The preliminary assessment found that adequate controls were not defined in the SOP.
- The Procurement SOP did not state the procurement threshold that should result in a contract.
- The SOP did not include the process for monitoring expiring contracts.
- Processes for emergency event procurements were vague.
- The UTA contact restrictions were not included in the Request for Proposals to vendors.
- The conflict-of-interest declaration did not include a reference to non-financial conflicts of interest.

Audit Condition Detail:

The Procurement department is in the process of implementing a revised SOP. During the audit phase, Internal Audit conducted testing on the draft SOPs documented requirements and found no issues. Noting the SOP has not been finalized as of the writing of this report.

Inherent Risk:

Procurement process may not have been executed as designed, which increases the risk of non-compliance with laws, regulations, or policies and procedures. The approval of the SOP is awaiting the revised Procurement Contracting Policy and Contract Authority Policy prior to be presented to the Board of Trustees for approval. Once those policies are approved, the SOPs can be formally adopted.

Recommendations:

Management approve and implement department draft SOP timely.

Audit Finding R-20-01-03 Contract Approval**Criteria:**

UTA Policy 3.1.6

–III.A.1 Contracting Authority: All Contracts must be signed by persons with authority equal to or greater than that identified in Table A or B as applicable.

– III.B.6 When the procurement process is complete and the terms of the contract have been negotiated, the Contracts Administrator shall circulate the contract for signature, along with a completed Contract Routing Form.

Preliminary Assessment Condition Summary:

All Laserfiche full users had the capability to approve a contract if it is assigned to them, irrespective of whether the user was authorized to approve that contract. Although policy dictated the appropriate authority level for contract value, there was not a control to prevent inappropriate approval of contracts in Laserfiche.

Audit Condition Detail - Remediated:

Laserfiche has been updated to only select appropriate UTA employee to review and approve contracts and documents routed through Laserfiche workflow.

Inherent Risk:

UTA Contracts incorrectly assigned to a user in Laserfiche may be approved by that unauthorized user.

Recommendations:

Previously identified risk has been mitigated. No further action required.

Audit Finding R-20-01-04 Direction or Authorization to Proceed (DAP)**Criteria:**

- *FTA C 4220.1F*: The FTA does not participate in the recipient's decisions involving change orders, constructive changes, or modifications, but reserves the right to review the recipient's supporting documentation as necessary to determine the extent of FTA assistance that may be used to support those costs.
- *The Committee of Sponsoring Organizations (COSO)* defines that control activities should be deployed through policies that establish what is expected and in procedures that put policies in action.

Preliminary Assessment Condition Summary:

The Direction or Authorization to Proceed process is not well defined for users, occurs outside of Procurement oversight, and may be dependent on the practices of the facilitator rather than a defined standard approved by management.

Audit Condition Detail - Remediated:

The Project Control User Manual has been updated to include the DAP process and ownership.

Inherent Risk:

UTA department managers are unaware of the proper process for approving DAPs, allowing for undocumented or inadequate documentation of DAPs.

Recommendations:

Previously identified risk has been mitigated. No further action required.

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