

September 30, 2021

Ms. Elsa Montalvo
Director of Purchasing
The University of Texas Permian Basin
4901 E. University Boulevard
Odessa, Texas 79762

Dear Ms. Montalvo:

We have completed our audit of UT Permian Basin's (UTPB) contract bidding and award process, as included in the FY 2021 audit plan. We conducted our audit in accordance with guidelines set forth in UTS 129, the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*, and *Generally Accepted Government Auditing Standards (GAGAS)* as issued by the Comptroller General of the United States.

The purpose of our audit was to determine whether UTPB is following State requirements, as well as UT System and UTPB policies and procedures, in its procurement process.

The results of our audit show that UTPB is following State requirements; however, testing revealed one instance where a purchase order was issued on a project without a contract, nor with performance or payments bonds, and that UTPB policy is not consistently followed in the solicitation of bids. For additional information, please refer to the attached report.

We wish to express our appreciation to the management and staff of UT Permian Basin for the courtesy and cooperation extended to us during this audit.

Sincerely,



Glenn Spencer, CPA, CGMA
Chief Audit Executive

cc: Dr. Sandra K. Woodley, President
Cesario Valenzuela, CPA, Vice President for Business Affairs and Chief Financial Officer



THE UNIVERSITY OF TEXAS
PERMIAN BASIN

Contract Bidding & Award Process

September 2021

**Office of Internal Audit
4901 E. University Boulevard
Odessa, Texas 79762**

Table of Contents

| | |
|--|----------|
| Executive Summary | 3 |
| Objective | 3 |
| Scope and Methodology | 3 |
| Risk Ranking Criteria | 4 |
| Audit Results | 4 |
| Recommendations | 5 |
| Conclusion | 6 |
| Appendix A – Report Distribution List | 7 |

Executive Summary

We have completed our audit of the contract bidding and award process for University of Texas Permian Basin (UTPB), as included in the approved Audit Plan for fiscal year 2021.

| Risk Level | Findings |
|---------------|--|
| High | Purchase order issued on project without a contract, nor with performance and payment bonds |
| Medium | UTPB policy is not consistently followed in the solicitation of bids |

OVERALL CONCLUSION

The results of our audit show UTPB is following state requirements; however, testing revealed one instance where a purchase order was issued on a project without a contract, nor with performance, or payment bonds, and that UTPB policy is not consistently followed in the solicitation of bids.

Objective

The objective of our audit was to perform a review of the contract bidding and award process to determine whether UTPB is complying with State requirements, as well as UT System and UTPB policies and procedures.

Scope and Methodology

We reviewed the Texas Procurement and Contract Management Guide, UT System and UTPB Contract Management Handbooks. The Director of Purchasing completed an internal control questionnaire regarding the contract bidding and award process. Detailed but limited testing was performed with a focus on construction, maintenance, and service contracts. Our audit included the following procedures:

- Gained an understanding of State requirements, UT System and UTPB policy, and the procedures in place at UTPB
- Reviewed the completed internal control questionnaire regarding the contract bidding and award process
- Tested a sample of construction and service contracts and the related supporting documentation from the auditee provided contract list

We conducted our audit in accordance with guidelines set forth in UTS 129; with the Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*; and with *Generally Accepted Government Auditing Standards (GAGAS)* as issued by the Comptroller General of the United States.

Risk Ranking Criteria

| Risk Level | Definition |
|-----------------|---|
| PRIORITY | An issue or condition, if not addressed immediately, has a high probability to directly impact achievement of a strategic or important operational objective of UT Permian Basin or UT System as a whole. |
| HIGH | Risk that is considered to be substantially undesirable and results in a medium to high probability of significant adverse effects to UT Permian Basin either as a whole or at the college/department/unit level. |
| MEDIUM | Risk that is considered undesirable and has a low to medium probability of adverse effects to UT Permian Basin either as a whole or at the college/department/unit level. Without appropriate controls, the risk will occur some of the time. |
| LOW | Considered to have minimal probability of adverse effects to the UT institution either as a whole or at the college/ school/unit level. Even with no controls, the exposure to UT Permian Basin will be minimal. |

Audit Results

We reviewed UTPB's Contract Management Handbook, which serves as a reference for contract managers and purchasers. We tested 13 contracts related to construction, maintenance, or service. Of the 13 tested we noted 3 instances where policy regarding the solicitation of proposals, bids, or quotes was not followed. In 1 of the 3 instances where policy regarding solicitation was not followed, a purchase order was issued without a contract, nor with performance and payment bonds. Details provided in the findings below.

Finding #1: Purchase order issued on project without a contract, nor with performance and payment bonds

Assessed Level of Risk: High

Department staff, not Purchasing, contacted contractors directly and performed the solicitation for and receipt of quotes for a project valued at > \$50,000 (see Finding #2). The department prepared a best value determination based on lowest cost to the University; and from that determination Purchasing issued a purchase order (PO) without having a signed contract, nor having performance and payment bonds.

Signed contracts and performance and payment bonds are required items that delineate the rights and responsibilities for all parties, and greatly limit the liability to the University should a contractor default on the project and/or not pay subcontractors and suppliers. Accordingly, these are required by UT System and UTPB policy.

It is noted that work on the project was stopped when it was identified that materials being used did not meet specifications. At that time, it was discovered that there was no signed contract. Therefore, Purchasing determined that the project would be re-bid.

Recommendation

Purchasing should implement a checklist that incorporates bidding/contract requirements as part of an internal review process. Such checklist would serve as an aid to help determine that adequate and proper solicitation efforts were performed, and that all required documents are in the University's possession prior to issuance of a PO and onset of work.

Management's Response/Action Plan

The Purchasing Department concurs with the finding. As recommended, the department will develop a checklist that incorporates all bidding and contracting requirements; including steps to ensure adequate and proper solicitation efforts are performed, as well as steps to verify that the department has possession of all required documents. The checklist will be completed prior to issuance of a purchase order and the completed checklist will be maintained alongside the other contract and purchase order documents.

Implementation Date

November 01, 2021

Person Responsible for Implementation

Elsa Montalvo – Director of Purchasing

Finding #2: UTPB policy is not consistently followed in the solicitation of bids.

Assessed Level of Risk: Medium

We noted two instances where quotes for contracts > \$50,000 were solicited and received by non-Purchasing staff. Additionally, we noted one instance of a maintenance agreement valued at approximately \$25,000 was entered into without any evidence of quotes being solicited. UTPB requirements, which follow both UT System and State guidelines, requires that:

- Purchases > \$50,000 "UTPB's purchasing office, not program staff, must take lead responsibility for conducting or overseeing the procurement"
- Purchases between \$15,000 to \$50,000 "Informal quotes from three or more potential vendors are required"

Not following such policies could result in misuse of funds and allegations of unfair bidding.

Recommendation

In addition to the checklist recommended for Finding #1, Purchasing should follow UTPB policy for all contracts that are expected to exceed \$50,000. This means taking ownership of each phase of the procurement process:

- solicitation of proposals, bids or quotes;
- responses to questions that may arise from potential bidders (respond directly to potential bidders);
- negotiations regarding proposals, bids or quotes; and
- review of all received proposals, bids or quotes.

Management's Response/Action Plan

We agree with the finding. Purchasing will follow UTPB policy in all contracting transactions. The requirement that Purchasing handle procurements expected to exceed \$50,000 will be fully complied with by all parties. The departments will be instructed to provide Purchasing with their project specifications and based on that information Purchasing will determine the appropriate solicitation to be performed. All questions, communications, negotiations, etc. from potential bidders will be handled by the Purchasing Department; additionally, Purchasing will review all received proposals, bids, or quotes. Contracts will be awarded in accordance with UTPB, UT System, and State requirements.

Implementation Date

November 01, 2021

Person Responsible for Implementation

Elsa Montalvo – Director of Purchasing

Conclusion

The results of our audit show UTPB is following state requirements; however, testing revealed one instance where a purchase order was issued on a project without a contract, nor with performance, or payment bonds, and that UTPB policy is not consistently followed in the solicitation of bids.

APPENDIX A

Report Distribution List

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