

The University of Texas at San Antonio

# UTSA Auditing & Consulting Services

Texas Education Code §51.9337 Compliance and Procurement Policies  
Project # 2020-06  
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This engagement was conducted in accordance with The Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing and with Government Auditing Standards.

Executive Summary  
TEC §51.9337 Compliance and Procurement Policies  
Internal Audit Report # 2020-06

**Background**

Texas Education Code (TEC) §51.9337 requires state agencies and institutions of higher education to have procurement policies, specifically:

- A [Contract Management Handbook](#) (CMH) with consistent guidance on contract review procedures and risk analysis procedures.
- Delegation of contracting authority.
- Training for purchasing and contracting staff.
- Code of ethics, standards of conduct, and policies on conflict of interest, conflicts of commitment, outside activities, and use of institutional resources and training.
- Fraud investigation policies and internal audit risk assessment processes.

The UTSA CMH outlines the policies and procedures for the procurement and contracting of goods and services and requires that a summary of each contract be posted on the internet. The [Purchase and Contract Transparency Reports](#) are posted on the Purchasing Office's website.

TEC §51.9337 requires the Chief Audit Executive to annually certify to the Texas State Auditor's Office that the institution has the required procurement policies in place. This certification will be included in the Annual Audit Report to the State Auditor's Office as required under Texas Government Code §2102.

**Objectives:**

- Ensure compliance with Texas Education Code §51.9337.
- Ensure procurement and contracting processes within the UTSA Contract Management Handbook are working as intended.

**Conclusion:**

UTSA has adopted the policies and procedures outlined in TEC §51.9337. Limited testing of procurement and contract attributes within the Contract Management Handbook showed procurement and contract processes to be working as intended. A minor issue was separately communicated to management.

Audit Results  
TEC §51.9337 Compliance and Procurement Policies  
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**Objective:** Ensure compliance with Texas Education Code §51.9337.

The UTSA Purchasing Department complied with Texas Education Code §51.9337. Specifically:

- A Contract Management Handbook (CMH) with consistent guidance on contract review procedures and risk analysis procedures exists,
- Delegation of contracting authority is clear in the CMH,
- Training for purchasing and contracting staff has occurred,
- UTSA has a code of ethics and standards of conduct,
- UTSA has policies on conflict of interest, conflicts of commitment, outside activities, and the use of institutional resources and training, and
- Fraud investigation policies and internal audit risk assessment processes exist.

**Objective:** Ensure procurement and contracting processes within the UTSA Contract Management Handbook are working as intended.

**Sample Testing**

Four *Formal Competitive* contracts and six *Exclusive Acquisitions* contracts were selected for testing.

- *Formal Competitive* contracts exceed \$50,000 and are competitively bid through a best value invitation for bid, request for qualification process, or request for proposal process.
- *Exclusive Acquisitions* exceed \$15,000 and are exempt from competitive requirements based on the distinctive characteristics of the procurement. *Exclusive Acquisitions* must demonstrate the achievement of best value for UTSA and are also called Sole Source or Proprietary Purchases.

Procurement requirements outlined in the Contract Management Handbook were tested:

- Clear and detailed Statement of Work or if product, specification describing the good or service,
- Evidence of Historically Underutilized Business (HUB) review,
- Purchasing Office involvement for purchases above \$50,000,
- Contractor Conflict of Interest acknowledgment,
- Signed non-disclosure statement for evaluation team members,
- Final summary and recommendation document and
- Final Approval by authorized Purchasing Officer.

Audit Results  
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Additional attributes for *Formal Competitive* contracts tested included:

- Evidence of Invitation for Bids, Request for Qualifications or Request for Proposals (RFP) and
- Final team member evaluation matrix.

Additional attributes for *Exclusive Acquisition* contracts tested included:

- Use of a Justification of Exclusive Acquisition Form and
- Use of a bid tabulation, summary and recommendations document.

Procurement requirements outlined in the Contract Management Handbook for both the *Formal Competitive* contracts and *Exclusive Acquisitions* contracts were followed.