

Stephen F. Austin State University

Contract Management and Procurement Assessment (TEC §51.9337)

As of April 30, 2024

Audit Report 24-201



Department of Audit Services

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EXECUTIVE SUMMARY

The Department of Audit Services has completed an assessment of Contract Management and Procurement as required by Texas Education Code §51.9337, *Purchasing Authority Conditional, Required Standards* (TEC §51.9337).

AUDIT OBJECTIVE

The audit objective is to gain assurance that the University has adopted the rules and policies required by TEC §51.9337.

SCOPE

The audit scope includes the University's Contract Management and Procurement program as of April 30, 2024 and related purchases during Fiscal Year 2024.

SUMMARY OF AUDIT RESULTS

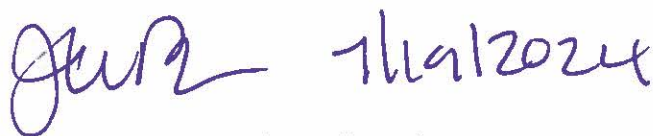
We gained assurance that the University was generally in compliance with adopting the rules and policies required by TEC §51.9337. The status of each TEC §51.9337 requirement is shown in Appendix 1.

CERTIFICATION

TEC §51.9337(h) states "The chief auditor of an institution of higher education shall annually assess whether the institution has adopted the rules and policies required by this section and shall submit a report of findings to the state auditor." This audit report fulfills the requirements of this section.

ACKNOWLEDGMENTS

We appreciate the assistance provided to us during our audit by Procurement and Business Services.



Jane Ann Bridges, CPA, CIA, CFE
Chief Audit Executive
Stephen F. Austin State University

DETAILS OF AUDIT

BACKGROUND

Texas Education Code §51.9337, *Purchasing Authority Conditional, Required Standards* (TEC §51.9337) specifies standards for contracting and requires "the chief auditor of the institution of higher education shall annually assess whether the institution has adopted the rules and policies required by this section and shall submit a report of findings to the state auditor."

TEC §51.9337 requires state agencies and institutions of higher education to have the following:

- A Contract Management Handbook 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, as well as use of institutional resources and training.
- Fraud investigation policies and internal audit risk assessment processes.

AUDIT OBJECTIVE, SCOPE, AND METHODOLOGY

The audit objective is to gain assurance that the University has adopted the rules and policies required by TEC §51.9337.

The audit scope includes the University's Contract Management and Procurement program as of April 30, 2024 and related purchases during Fiscal Year 2024. Our procedures did not include testing compliance with the policies and procedures.

We performed our audit in accordance with the *International Standards for the Professional Practice of Internal Auditing* and *Generally Accepted Government Auditing Standards (GAGAS)*. The standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on our audit objectives. The Department of Audit Services is independent per both standards for internal auditors.

The audit methodology consisted of performing a risk assessment; reviewing applicable policies, procedures, laws, and best practices; interviewing appropriate University personnel; evaluating opportunities for fraud to occur; testing for compliance with TEC §51.9337; and performing other procedures as deemed necessary.

The audit criteria included:

- University of Texas System policies;
- University procedures;

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- Texas Education Code §51.9337, Purchasing Authority Conditional, Required Standards;
- Other sound higher education contract management guidelines and practices.

APPENDIX 1 STATUS OF TEC §51.9337 REQUIREMENTS

The status of each TEC §51.9337 requirement as of April 30, 2024 is as follows:

| Requirement | Status |
|--|--------------------------------|
| <p>I. Required Standards TEC §51.9337(b)</p> <p>The Board of Regents by rule shall establish for each institution under the management and control of the board:</p> <ol style="list-style-type: none"> 1. a code of ethics for the institution's officers and employees, including provisions governing officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, subject to Subsection (c); 2. policies for the internal investigation of suspected defalcation, misappropriation, and other fiscal irregularities and an institutional or systemwide compliance program designed to promote ethical behavior and ensure compliance with all applicable policies, laws, and rules governing higher education, including research and health care to the extent applicable; 3. a contract management handbook that provides consistent contracting policies and practices and contract review procedures, including a risk analysis procedure, subject to Subsection (d); 4. contracting delegation guidelines, subject to Subsections (e) and (f); 5. training for officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods, and information resources purchasing technologies; and 6. internal audit protocols, subject to Subsection (g). | <p>Generally in Compliance</p> |
| <p>II. Required Standard – Code of Ethics TEC §51.9337(c)</p> <p>The code of ethics governing an institution of higher education must include:</p> <ol style="list-style-type: none"> 1. general standards of conduct and a statement that each officer or employee is expected to obey all federal, state, and local laws and is subject to disciplinary action for a violation of those laws; 2. policies governing conflicts of interest, conflicts of commitment, and outside activities, ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position; 3. a conflict of interest policy that prohibits employees from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of the employee's duties related to the public interest; 4. a conflict of commitment policy that prohibits an employee's activities outside the institution from interfering with the employee's duties and responsibilities to the institution; 5. a policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting institutional approval to perform the activities; 6. a policy that prohibits an officer or employee from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the institution; 7. a policy governing the use of institutional resources; and 8. a policy providing for the regular training of officers and employees on the policies described by this subsection. | <p>Generally in Compliance</p> |

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| Requirement | Status |
|---|--------------------------------|
| <p>III. Required Standard – Contract Review Procedures and Checklist TEC §51.9337(d)</p> <p>An institution of higher education shall establish contract review procedures and a contract review checklist that must be reviewed and approved by the institution's legal counsel before implementation. The review procedures and checklist must include:</p> <ol style="list-style-type: none"> 1. A description of each step of the procedure that an institution must use to evaluate and process contracts; 2. A checklist that describes each process that must be completed before contract execution; and 3. A value threshold that initiates the required review by the institution's legal counsel unless the contract is a standard contract previously approved by the counsel. | <p>Generally in Compliance</p> |
| <p>IV. Required Standard – Contracts Requiring Board Approval TEC §51.9337(e)</p> <p>An institution of higher education's policies governing contracting authority must clearly specify the types and values of contracts that must be approved by the board of regents and the types and values of contracts for which contracting authority is delegated by the board to the chief executive officer and by the chief executive officer to other officers and employees of the institution. An officer or employee may not execute a document for the board unless the officer or employee has authority to act for the board and the authority is exercised in compliance with applicable conditions and restrictions.</p> | <p>Generally in Compliance</p> |
| <p>V. Required Standard – Contracts Over \$1 Million TEC §51.9337(f)</p> <p>An institution of higher education may not enter into a contract with a value of more than \$1 million, including any amendment, extension, or renewal of the contract that increases the value of the original contract to more than \$1 million, unless the institution's board of regents approves the contract, expressly delegates authority to exceed that amount, or expressly adopts an exception for that contract. The board must approve any amendment, extension, or renewal of a contract with a value that exceeds 25 percent of the value of the original contract approved by the board unless the authority to exceed the approved amount is expressly delegated by the board or an exception is expressly adopted by the board for that contract.</p> | <p>Generally in Compliance</p> |
| <p>VI. Required Standard – Internal Audit TEC §51.9337(g)</p> <p>The board of regents of an institution of higher education shall adopt standards for internal audits conducted by the institution to provide a systematic, disciplined approach to evaluate and improve the effectiveness of the institution's risk management, control, and governance processes related to contracts and to require risk-based testing of contract administration. The internal auditor must have full and unrestricted access to all institutional property, personnel, and records. An internal auditor must report directly to the board of regents in accordance with Chapter 2102, Government Code.</p> | <p>Generally in Compliance</p> |
| <p>VII. Required Standard – Chief Audit Executive Annual Assessment TEC §51.9337(h)</p> <p>The chief auditor of an institution of higher education shall annually assess whether the institution has adopted the rules and policies required by this section and shall submit a report of findings to the state auditor. In auditing the purchase of goods and services by the institution, the state auditor shall determine whether an institution has adopted the required rules and policies.</p> | <p>Generally in Compliance</p> |