



An Audit Report on

Contracting Processes at the Texas State University System

July 2020
Report No. 20-037



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Overall Conclusion

The Texas State University System (System) had processes to ensure that it plans and procures contracts in accordance with applicable requirements. However, it should strengthen its processes to ensure that (1) vendor proposals are properly scored, (2) required conflict of interest and non-disclosure statements are completed, and (3) its contracts include the clauses required by System policy.

Vendor proposals and required disclosures. The System did not have a process in place to ensure that vendor proposals were accurately scored and ranked. For example, evaluators did not consistently use the same scoring weight, and all evaluator scores were not always included in the final ranking. Additionally, the System did not always ensure that every employee involved in the contracting procurement process completed conflict of interest, non-disclosure agreement, and nepotism disclosure forms.

Statements of work and required clauses. Although the System ensured that the contracted scope of work was substantially the same as the solicited scope of work, it did not have a process to ensure that its contracts contain all of the contract clauses required by the System's *Contract Management Handbook*.

Change orders, close-outs, and payment approvals. The System had processes to ensure that contract change orders were approved and that the contracts were closed out in accordance with its policies and procedures, but it should strengthen its review of contract payments.

Contract handbook, training, and contract reporting. The System complied with certain statutory contracting requirements such as developing a contract management handbook, completing training requirements, and posting contracts \$15,000 and greater to its website as required. However, it did not report all contracts \$50,000 and greater to the Legislative Budget Board.

Background Information

The Texas State University System (System) consists of seven component institutions:

- Lamar University.
- Sam Houston State University.
- Sul Ross State University.
- Texas State University.
- Lamar Institute of Technology.
- Lamar State College-Orange.
- Lamar State College-Port Arthur.

The System has two contracting functions:

- System contracts are contracts procured and administered by the System, for System purposes (goods and services).
- Component institution contracts are contracts procured by the System for the component institutions. These contracts are administered by the components and are for component uses, such as capital construction.

Source: The System and the System's website <https://www.tsus.edu/>.

This audit was conducted in accordance with Texas Government Code, Sections 321.0131 and 321.0132.

For more information regarding this report, please contact Becky Beachy, Audit Manager, or Lisa Collier, First Assistant State Auditor, at (512) 936-9500.

Table 1 presents a summary of the findings in this report and the related issue rating. (See Appendix 2 for more information about the issue rating classifications and descriptions.)

Table 1

Summary of Chapters/Subchapters and Related Issue Ratings		
Chapter/ Subchapter	Title	Issue Rating ^a
1-A	The System Complied With Selected Contract Planning and Procurement Requirements	Low
1-B	The System Did Not Consistently Ensure That Vendor Proposals Were Accurately Scored and That Required Conflict of Interest Forms Were Completed	High
1-C	The System Should Strengthen Its Contract Formation Process to Ensure That All Required Clauses Are Included and Contracts Are Approved by the Appropriate Personnel	Medium
2	The System Had Adequate Processes to Approve Change Orders and to Close Out Contracts; However, It Should Strengthen Its Review of Contract Payments	Medium
3-A	The System Implemented Contracting Policies, Procedures, and Training in Accordance with Requirements	Low
3-B	The System Should Enhance Compliance With Statutory Reporting Requirements	Medium

^a A chapter/subchapter is rated **Priority** if the issues identified present risks or effects that if not addressed could critically affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **High** if the issues identified present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

A chapter/subchapter is rated **Medium** if the issues identified present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

A chapter/subchapter is rated **Low** if the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

Auditors communicated other, less significant issues separately in writing to the System's management.

Summary of Management's Response

At the end of certain chapters in this report, auditors made recommendations to address the issues identified during this audit. The System agreed with the recommendations in the report.

Audit Objectives and Scope

The objective of this audit was to determine whether the Texas State University System has administered certain contract management functions in accordance with applicable requirements.

The scope of this audit included the System's involvement in contract procurement, vendor selection, contract formation, and certain contract administration activities for the contracts that were procured by the System for a component institution's need that were active at any time from September 1, 2018, through November 30, 2019.

Additionally, the scope of this audit covered contract planning, procurement, vendor selection, formation, and certain contract administration activities for System contracts that were active at any time from September 1, 2018, through November 30, 2019.

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Detailed Results

Chapter 1

The System Had Adequate Contract Planning and Procurement Processes to Ensure That It Complied With Most Applicable Requirements; However, It Should Strengthen Its Vendor Selection, Ensure Completion of Required Forms, and Include Required Clauses in Contracts

The System performed certain contract planning and procurement tasks in compliance with applicable requirements. However, the System should strengthen its processes to ensure that (1) vendor proposals are properly scored, (2) required conflict of interest and non-disclosure statements are completed, and (3) its contracts include the clauses required by System policy.

Chapter 1-A

The System Complied With Selected Contract Planning and Procurement Requirements

Contract Planning

The System had processes in place to comply with the planning requirements of developing a needs assessment and cost estimate (see text box). For all six applicable contracts tested,² the System completed a needs assessment. In addition, it completed a cost estimate for five of those six contracts. The remaining contract did not require a cost estimate because it was below the dollar amount requiring a competitive procurement, and a cost analysis was not required.

Contract Procurement

The System had processes in place to ensure that it procured contracts in accordance with its *Contract Management Handbook*. The System approved

**Chapter 1-A
Rating:
Low ¹**

Needs Assessment and Cost Estimate

Needs Assessment: Clearly identify general contracting objectives, assumptions, and constraints.

Cost Estimate: An estimated cost of the procurement to provide an idea of the range of goods and services to be included in the scope of work.

Source: The System's *Contract Management Handbook*, June 2018.

¹ The risk related to the issues discussed in Chapter 1-A is rated as Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

² The System is not involved in the planning of component institution contracts. Therefore, the six contracts discussed are System contracts only. For one additional contract, the System relied on the needs assessment and cost analysis completed by the component university during the formal procurement.

all 11 solicitations tested prior to advertising them and advertised all 11 solicitations in appropriate places, such as the Electronic State Business Daily.

Chapter 1-B

The System Did Not Consistently Ensure That Vendor Proposals Were Accurately Scored and That Required Conflict of Interest Forms Were Completed

**Chapter 1-B
Rating:
High ³**

The System did not have a process in place to ensure that vendor proposals were accurately scored and ranked. In addition, the System did not always ensure that all required conflict of interest, non-disclosure, and nepotism disclosure forms were completed and signed. While the System had a contract procurement checklist that contained the required elements from Texas Education Code, Section 51.9337, the System did not utilize this checklist consistently and timely to ensure that those forms were completed and signed.

The System did ensure that the vendors completed a certificate of interested parties for submission to the Texas Ethics Commission, as required by Texas Government Code, Section 2252.908, for all eight applicable contracts tested.

Vendor Proposal Scoring and Evaluations

The System's process for scoring vendor proposals did not ensure that the final score was accurate, as required by the System's *Contract Management Handbook*. The System did not always accurately score, use consistent scoring methodologies, or rank all of the vendor proposals for 6 (54.5 percent) of 11 contracts tested. For example, evaluators did not consistently use the same scoring weight, and all evaluator scores were not always included in the final ranking.

Although the errors did not change the final result and the System selected the appropriate contractor based on the evaluation criteria, similar evaluation errors and lack of an adequate review could result in the System awarding a contract to a vendor that is not the most qualified.

Conflict of Interest and Non-disclosure Forms

The System did not always ensure that employees involved in the procurement of its contracts completed conflict of interest, non-disclosure

³ The risk related to the issues discussed in Chapter 1-B is rated as High because they present risks or effects that if not addressed could substantially affect the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern and reduce risks to the audited entity.

agreement, and nepotism forms as required (see text box for requirements). Specifically:

- **Conflict of Interest and Non-Disclosure Agreement Form.**⁴ For 7 (63.6 percent) of 11 contract solicitations tested, at least one Contract/Evaluation Review Team member did not complete a conflict of interest and non-disclosure agreement form as required. For those 7 contracts, there were 44 Contract/Evaluation Review Team members that did not complete the form.
- **Nepotism Disclosure Forms.** For 5 (71.4 percent) of 7 contract solicitations greater than \$1 million in value tested, none of the 29 Contract/Evaluation Review Team members completed the nepotism disclosure form as required.

Disclosure of Potential Conflicts of Interest

Conflict of Interest disclosures. Each employee or official, of a state agency, including a higher education institution, involved in procurement or contract management must disclose any potential conflict of interest. A state agency may not enter into a contract with a private vendor if the agency's procurement director or governing official has a financial interest.

Non-disclosure agreements. Contract/Evaluation Review Team members will submit a signed non-disclosure and conflict of interest form to the Procurement/Purchasing Office or Contracting Office prior to any activity as a team member.

Nepotism disclosure. An employee of a state agency, including a university system or institution of higher education, working on a contract valued at \$1 million or greater must disclose in writing any relationship with the business entity.

Sources: Texas Government Code Sections 2261.252, 2262.004, and the System's *Contract Management Handbook*.

Having conflict of interest, non-disclosure, and nepotism disclosure forms completed by all applicable parties involved would help the System ensure that its contract procurement process is fair and objective, and that a vendor is not given an unfair advantage or shown favoritism. Auditors performed limited procedures and did not identify any potential conflicts of interest.

Contract Checklists

The System established a contract review checklist as required by Texas Education Code, Section 51.9337. The System's contract checklist included a list of items to be completed during the contracting phase, such as:

- A conflict of interest and non-disclosure form received from all Contract/Evaluation Review Team members.
- A contract risk evaluation tool to determine whether a contract requires enhanced monitoring.
- Identification of external reporting requirements and timelines.

⁴ The System's conflict of interest statement and non-disclosure agreement are both included on one form.

This checklist should assist the System in assuring that all documentation, reviews, and procedures have been completed for a specific contract procurement process. However, auditors determined that the checklist was not used consistently, which contributed to the issues discussed in this chapter.

Using the contract checklist may help ensure that the System adheres to its policies and procedures and applicable requirements.

Recommendations

The System should:

- Develop and implement scoring tools that use the criteria in the solicitations and ensure that the scores are mathematically correct.
- Require that employees involved in a contract procurement or contract management complete and sign applicable (1) conflict of interest forms, (2) nepotism disclosure forms, and (3) non-disclosure agreements.
- Utilize its contract procurement checklist to ensure all processes are completed prior to execution of the contract.

Management's Response

Recommendation (Chapter 1-B)

The System should develop and implement scoring tools that use the criteria in the solicitations and ensure that the scores are mathematically correct.

Management Response – The System agrees. The current scoring matrix template has been amended (April 1, 2020) to prevent editing by the evaluators. Matrices are also reviewed upon return to ensure all fields have been completed and that scores are mathematically correct. The System will look for additional opportunities to simplify the scoring matrix to reduce the opportunity for error.

Implementation Date - October 1, 2020

Responsible Individual – Vice Chancellor and CFO

The System should require that employees involved in a contract procurement or contract management complete and sign applicable (1) conflict of interest forms, (2) nepotism disclosure forms, and (3) non-disclosure agreements.

Management Response - The System agrees. In May 2018, the oversight of construction- related contracts was restructured and moved within the Office of Finance to provide enhanced oversight of procurement requirements. Contract files are now reviewed for completeness, including inclusion of applicable non-disclosure/conflict of interest and nepotism disclosure forms, by the Director of Procurement or the Director of Capital Project Administration prior to contract issuance.

Implementation Date – February 2020

Responsible Individual – Director of Procurement and Director of Capital Project Administration

The System should utilize its contract procurement checklist to ensure all processes are completed prior to execution of the contract.

Management Response – The System agrees. A revised Procurement & Contracting Checklist will be implemented, and contract files will be reviewed for completeness by the Director of Procurement or Director of Capital Project Administration prior to contract issuance.

Implementation Date – September 1, 2020

Responsible Individual – Director of Procurement and Director of Capital Project Administration

Chapter 1-C

The System Should Strengthen Its Contract Formation Process to Ensure That All Required Clauses Are Included and Contracts Are Approved by the Appropriate Personnel

**Chapter 1-C
Rating:**

Medium ⁵

While the System ensured that the contracted scope of work (see text box) was substantially the same as the solicited scope of work for all 11 applicable contracts tested⁶, the System should ensure that its contracts contain all of the clauses required by the System's *Contract Management Handbook*. In addition, the System reviewed and approved a

Scope of Work

The scope of work is a description of the products and services to be provided by the vendor.

Source: The System's *Contract Management Handbook*.

⁵ The risk related to the issues discussed in Chapter 1-C is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

⁶ Not all contracts required that the System create a formal solicitation that included a scope of work (SOW). For example, one contract did not require the SOW because a formal procurement was not performed for the contract. Eleven of the 14 contracts tested required the System to create a formal solicitation.

majority of the applicable contracts prior to execution in accordance with its policies and procedures.

Required Contract Clauses

The System did not have a process to ensure that its contracts contain all of the required contract clauses. For 11 (84.6 percent) of 13 applicable contracts tested⁷, the System did not include at least one of the required contract clauses. Some of the contract clauses excluded were: (1) Tax Exempt Status, (2) Contract Subject to all Applicable State Law, and (3) Personnel Placed Permanently on Campus. The System's legal department reviewed 12 (92.3 percent) of those 13 contracts, including all 11 that did not have the required clauses.

Not including the required clauses could increase the risk of liability for the System.

Contract Approvals

The System obtained required approvals for 13 (92.9 percent) of 14 contracts tested. The remaining contract was approved and signed by the chancellor; however, it was not approved by the Board of Regents (Board), as required by the System's policies and procedures. Certain contracts in the amount of \$2 million or more are subject to approval by the Board. Not obtaining the required approvals may result in the Board's diminished governance over the System's contracts.

Recommendations

The System should:

- Develop and implement a process to ensure that its contracts contain all of the required contract clauses.
- Approve contracts in accordance with its policies and procedures.

Management's Response

Recommendation (Chapter 1-C)

The System should develop and implement a process to ensure that its contracts contain all of the required contract clauses.

⁷ For one contract, the System purchased land, and the contract it used did not require the System's standard contract clauses. Thirteen of the 14 contracts tested required the standard clauses.

Management Response – The System agrees. The System will amend the Contract Management Handbook to clarify between those contract clauses that are required and those that are encouraged.

Implementation Date - September 1, 2020

Responsible Individual – Vice Chancellor and CFO

The System should approve contracts in accordance with its policies and procedures.

Management Response – The System agrees. To ensure approvals are in accordance with policies and procedures, the System reviewed and streamlined relevant portions of the TSUS Rules & Regulations and the TSUS Policies and Procedures Manual for Planning & Construction. The System will look for additional opportunities during the subsequent review of the TSUS Contract Management Handbook.

Implementation Date – November 14, 2019

Responsible Individual – Director of Procurement

The System Had Adequate Processes to Approve Change Orders and to Close Out Contracts; However, It Should Strengthen Its Review of Contract Payments

**Chapter 2
Rating:**
Medium⁸

The System had processes to ensure that contract change orders were approved and that the contracts were closed out in accordance with its policies. The System had one contract change order from September 1, 2018 through November 30, 2019. This change order was reviewed and approved by the required personnel. Additionally, auditors tested three contracts that the System closed out during fiscal year 2019 and fiscal year 2020. All three of these contracts were closed in compliance with the System's *Contract Management Handbook*. Compliance includes (1) determining that a contractor has substantially performed all required contractual obligations and (2) making a final payment to the contractor.

However, the System should strengthen its review of contract payments (see text box for contract payment requirements). While the System approved all six contract payments tested, two of those payments were not invoiced in accordance with the contract terms. The two invoices for these payments did not include detailed descriptions of the services being invoiced as required by the contract terms. For one of those two invoices, the payment amount was not based on the rates in the contract and was overpaid by \$388. While the overpayment was a small amount, not adhering to contract terms creates a risk that the System could be paying for goods and services that it does not receive.

Contract Payment Requirements

Contract payments must be reviewed by the Contract Administrator (or his or her designee) for compliance with the contract pricing terms, which includes ensuring the invoice is correct and complies with the pricing, terms and conditions of the contract, before approving invoices for payment.

Source: The System's *Contract Management Handbook*.

Recommendation

The System should review vendor payments to ensure that the invoice complies with contract terms.

⁸ The risk related to the issues discussed in Chapter 2 is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Management's Response

Recommendation (Chapter 2)

The System should review vendor payments to ensure that the invoice complies with contract terms.

Management Response – The System agrees. Vendor invoices are reviewed to ensure compliance with contract terms. The invoice identified in the audit was an estimated payment with a year-end settle-up. Credits related to the annual charges were applied on subsequent invoices paid on June 11, 2020.

Implementation Date – June 11, 2020

Responsible Individual – Associate Vice Chancellor for Finance & Controller

The System Complied With Applicable Requirements Related to Contracting Policies, Procedures, and Training; However, It Should Strengthen Its Contract Reporting Process

The System complied with certain statutory contracting requirements such as developing a contract management handbook and completing training requirements. However, it should strengthen its process for reporting contracts to the Legislative Budget Board.

**Chapter 3-A
Rating:
Low⁹**

Chapter 3-A

The System Implemented Contracting Policies, Procedures, and Training in Accordance with Requirements

The System implemented policies and procedures in its *Contract Management Handbook* to address the applicable contract-related requirements in Texas Education Code, Section 51.9337, and Texas Government Code, Sections 2261.253 and 2261.256 (see text box on contracting requirements). For example, that handbook provides guidance for the System's component institutions on the procedures needed to plan, procure, form, and administer contracts, including procedures for enhanced monitoring.

Additionally, the handbook requires all officers and employees authorized to execute contracts to complete training and certification requirements, including ethics training. All five employees required to complete the training or certification requirements had completed them.

Contracting Requirements

Higher education institutions are required to establish a code of ethics, a contract management handbook, contracting delegation guidelines, training for officers and employees involved in the contracting process, and policies and procedures governing conflicts of interest.

Additionally, those institutions must establish a procedure to identify which contracts require enhanced contract and performance monitoring, and must have an accountability and risk analysis procedure.

Sources: Texas Education Code, Section 51.9337, and Texas Government Code, Sections 2261.253 and 2261.256.

⁹ The risk related to the issues discussed in Chapter 3-A is rated as Low because the audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited or the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.

The System Should Enhance Compliance With Statutory Reporting Requirements

**Chapter 3-B
Rating:**

Medium ¹⁰

The System posted all 28 of its contracts greater than \$15,000 that were active at any time from September 1, 2018, through November 30, 2019, to its website as required by Texas Government Code, Section 2261.253 (see text box). However, the System did not consistently report contracts to the Legislative Budget Board in accordance with the General Appropriations Act.

The System reported 13 (68.4 percent) of 19 contracts that were active at any time from September 1, 2018, through November 30, 2019, to the Legislative Budget Board as required. The remaining six contracts had values that ranged from \$100,000 to \$500,000, exceeding the \$50,000 threshold that requires reporting. As of March 17, 2020, the six contracts had not been reported for at least six months.

Contract Posting and Reporting Requirements

The General Appropriations Act (85th Legislature), Article IX, Section 7.04, requires contracts, including amendments, modifications, renewals, or extensions that increase a contract's value to greater than \$50,000, to be reported to the Legislative Budget Board within 30 days of award or modification.

Texas Government Code, Section 2261.253, requires the institution to post on its website a listing of contracts/purchase orders for the procurement of goods or services from a private contractor for any contract paid with appropriated funds and any contract in excess of \$15,000 paid with non-appropriated funds.

Not reporting all contracts to the Legislative Budget Board may affect the transparency of the System's contracting activities.

Recommendations

The System should:

- Follow its policies and procedures for reporting contracts to the Legislative Budget Board.
- Report all contracts to the Legislative Budget Board in accordance with statutory requirements.

Management's Response

Recommendation (Chapter 3-B)

The System should follow its policies and procedures for reporting contracts to the Legislative Budget Board.

¹⁰ The risk related to the issues discussed in Chapter 3-B is rated as Medium because they present risks or effects that if not addressed could moderately affect the audited entity's ability to effectively administer program(s)/function(s) audited. Action is needed to address the noted concern and reduce risks to a more desirable level.

Management Response – The System agrees. The System is in the process of reviewing the Contract Management Handbook to better reflect the respective reporting requirements.

Implementation Date - September 1, 2020

Responsible Individual – Director of Procurement

The System should report all contracts to the Legislative Budget Board in accordance with the statutory requirements.

Management Response – The System acknowledges that Article IX, Section 7.04 of the General Appropriations Act (86th Regular) requires contracts to be reported to the Legislative Budget Board (LBB) regardless of funding source. The System reports all applicable contracts on its Transparency Report. Given the duplicative reporting burden, the System has prioritized reporting to the LBB contracts paid with appropriated funds first. The System will add the remaining six contracts identified by the SAO to the LBB database as required.

Implementation Date - September 1, 2020

Responsible Individual – Director of Procurement

Appendices

Appendix 1

Objective, Scope, and Methodology

Objective

The objective of this audit was to determine whether the Texas State University System (System) has administered certain contract functions in accordance with applicable requirements.

Scope

The scope of this audit included the System's involvement in contract procurement, vendor selection, contract formation, and certain contract administration activities for the contracts that were procured by the System for a component institution's need, and that were active at any time from September 1, 2018, through November 30, 2019.

Additionally, the scope of this audit covered contract planning, procurement, vendor selection, contract formation, and certain contract administration activities for System contracts that were active at any time from September 1, 2018, through November 30, 2019.

The scope also included a review of significant internal control components related to the contracting process (see Appendix 3 for more information about internal control components).

Methodology

The audit methodology included conducting interviews with System management and staff; collecting and reviewing selected planning, procurement, vendor selection, contract formation, and certain contract administration activities for the sample of contracts; reviewing applicable statutes and System policies and procedures; and performing selected tests and procedures.

Data Reliability and Completeness

Auditors obtained a population of contracts provided by the System that were active at any time from September 1, 2018, through November 30, 2019. Auditors assessed the reliability of the contract population by comparing that data to the contracts the System had reported on its website and to the Legislative Budget Board. Auditors determined that the contract population was sufficiently reliable and complete for purposes of this audit.

Auditors also assessed the reliability of the population of contract payment data by observing the payment data for each vendor in the sample of contracts in the System's financial system. Auditors determined that the contract payment data was sufficiently reliable and complete for purposes of this audit.

Sampling Methodology

Auditors selected a nonstatistical sample of 14 contracts out of 50 for testing based on risk. Seven of the 14 contracts were System contracts and 7 were contracts the System procured on behalf of a component institution. (See Appendix 4 for a list of the contracts sampled.) The sample design was chosen to address specific risk factors identified in the population, such as dollar amount and procurement type. The sample items were generally not representative of the population; therefore, it would not be appropriate to project those test results to the population.

Auditors selected a nonstatistical sample of 6 out of 22 contract payments made by the System on the 7 System contracts selected for testing. The sample design was chosen to evaluate the first or the first and second payments made within the audit scope. The sample items were generally not representative of the population; therefore, it would not be appropriate to project those test results to the population.

Information collected and reviewed included the following:

- The System's contract population.
- System contracts, including change orders and amendments.
- System contract documentation including the solicitation information, vendor proposals, scoring and evaluation information, and System contract checklists.
- System payments, including contractor payment requests, invoices, and approvals.
- System contract close-out information.
- System personnel training records, conflict of interest and nepotism disclosure statements, and nondisclosure statements.
- System user access data for eBuilder, the System's construction management software.

Procedures and tests conducted included the following:

- Interviewed System staff to identify the System’s contracting processes, including internal controls and the information that supports those processes.
- Reviewed the System’s contracting policies and procedures for compliance with applicable statutory requirements.
- Determined whether the System’s officers and employees authorized to execute contracts met the training requirements.
- Reviewed documentation to determine whether the System performed selected contract planning, procurement, vendor selection, and formation procedures.
- Reviewed documentation to determine whether System personnel completed applicable conflict of interest disclosure statements, nepotism disclosure forms, and nondisclosure agreement forms.
- Tested contract payments for accuracy, required approvals, and compliance with applicable requirements.
- Tested contract close-out processes.
- Tested whether the System reported contract information to the Legislative Budget Board accurately and within the required time frames.
- Tested change orders for supporting documentation and required approvals.

Criteria used included the following:

- The System’s *Contract Management Handbook*, June 2018.
- The System’s *Policies and Procedures Manual for Planning and Construction*, May 2017.
- The System’s Rules and Regulations.
- Texas Education Code, Chapter 51.
- Texas Government Code, Chapters 572, 2166, 2251, 2252, 2261, and 2262.
- Contract terms in the audited contracts.
- The General Appropriations Act (85th Legislature).

Project Information

Audit fieldwork was conducted from October 2019 through June 2020. We conducted this performance audit in accordance with generally accepted government auditing standards. Those 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 our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Link S. Wilson (Project Manager)
- Ro Amonett, MPA (Assistant Project Manager)
- Lauren Ramsey
- Mary Beth Schwing, CPA, CFE, CGMA
- Ann E. Karnes, CPA (Quality Control Reviewer)
- Becky Beachy, CIA, CGAP (Audit Manager)

Issue Rating Classifications and Descriptions

Auditors used professional judgment and rated the audit findings identified in this report. Those issue ratings are summarized in the report chapters/sub-chapters. The issue ratings were determined based on the degree of risk or effect of the findings in relation to the audit objective(s).

In determining the ratings of audit findings, auditors considered factors such as financial impact; potential failure to meet program/function objectives; noncompliance with state statute(s), rules, regulations, and other requirements or criteria; and the inadequacy of the design and/or operating effectiveness of internal controls. In addition, evidence of potential fraud, waste, or abuse; significant control environment issues; and little to no corrective action for issues previously identified could increase the ratings for audit findings. Auditors also identified and considered other factors when appropriate.

Table 2 provides a description of the issue ratings presented in this report.

Table 2

Summary of Issue Ratings	
Issue Rating	Description of Rating
Low	The audit identified strengths that support the audited entity's ability to administer the program(s)/function(s) audited <u>or</u> the issues identified do not present significant risks or effects that would negatively affect the audited entity's ability to effectively administer the program(s)/function(s) audited.
Medium	Issues identified present risks or effects that if not addressed could <u>moderately affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Action is needed to address the noted concern(s) and reduce risks to a more desirable level.
High	Issues identified present risks or effects that if not addressed could <u>substantially affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Prompt action is essential to address the noted concern(s) and reduce risks to the audited entity.
Priority	Issues identified present risks or effects that if not addressed could <u>critically affect</u> the audited entity's ability to effectively administer the program(s)/function(s) audited. Immediate action is required to address the noted concern(s) and reduce risks to the audited entity.

Internal Control Components

Internal control is a process used by management to help an entity achieve its objectives. Government Auditing Standards require auditors to assess internal control when internal control is significant to the audit objectives. The Committee of Sponsoring Organizations of the Treadway Commission (COSO) established a framework for 5 integrated components and 17 principles of internal control, which are listed in Table 3.

Table 3

Internal Control Components and Principles		
Component	Component Description	Principles
Control Environment	The control environment sets the tone of an organization, influencing the control consciousness of its people. It is the foundation for all other components of internal control, providing discipline and structure.	<ul style="list-style-type: none"> ▪ The organization demonstrates a commitment to integrity and ethical values. ▪ The board of directors demonstrates independence from management and exercises oversight of the development and performance of internal control. ▪ Management establishes, with board oversight, structures, reporting lines, and appropriate authorities and responsibilities in the pursuit of objectives. ▪ The organization demonstrates a commitment to attract, develop, and retain competent individuals in alignment with objectives. ▪ The organization holds individuals accountable for their internal control responsibilities in the pursuit of objectives.
Risk Assessment	Risk assessment is the entity's identification and analysis of risks relevant to achievement of its objectives, forming a basis for determining how the risks should be managed.	<ul style="list-style-type: none"> ▪ The organization specifies objectives with sufficient clarity to enable the identification and assessment of risks relating to objectives. ▪ The organization identifies risks to the achievement of its objectives across the entity and analyzes risks as a basis for determining how the risks should be managed. ▪ The organization considers the potential for fraud in assessing risks to the achievement of objectives. ▪ The organization identifies and assesses changes that could significantly impact the system of internal control.
Control Activities	Control activities are the policies and procedures that help ensure that management's directives are carried out.	<ul style="list-style-type: none"> ▪ The organization selects and develops control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels. ▪ The organization selects and develops general control activities over technology to support the achievement of objectives. ▪ The organization deploys control activities through policies that establish what is expected and procedures that put policies into action.
Information and Communication	Information and communication are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities.	<ul style="list-style-type: none"> ▪ The organization obtains or generates and uses relevant, quality information to support the functioning of internal control. ▪ The organization internally communicates information, including objectives and responsibilities

Internal Control Components and Principles		
Component	Component Description	Principles
		<p>for internal control, necessary to support the functioning of internal control.</p> <ul style="list-style-type: none"> ▪ The organization communicates with external parties regarding matters affecting the functioning of internal control.
Monitoring Activities	Monitoring is a process that assesses the quality of internal control performance over time.	<ul style="list-style-type: none"> ▪ The organization selects, develops, and performs ongoing and/or separate evaluations to ascertain whether the components of internal control are present and functioning. ▪ The organization evaluates and communicates internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management and the board of directors, as appropriate.

Source: Internal Control - Integrated Framework, Committee of Sponsoring Organizations of the Treadway Commission, May 2013.

List of Contracts Audited

Table 4 shows the 14 contracts selected for testing that were active at any time from September 1, 2018, through November 30, 2019.

Table 4

Summary of Contracts Tested				
Contract Award Date	Vendor Name	Contract Amount	Good/Service Purchased	Name of Institution
September 20, 2018	Big Bend Land & Cattle Co., Inc.	\$10,288	Land Purchase - Terlingua Ranch	Texas State University System
September 27, 2018	JE Dunn Construction	\$5,100,000	Wittliff Gallery Expansion	Texas State University
October 9, 2018	Freese and Nichols, Inc.	\$219,800	Campus Master Planning Service	Lamar State College - Port Arthur
October 16, 2018	ThyssenKrupp	\$35,000	Maintenance - Building / Property	Texas State University System
December 21, 2018	Flintco, LLC	\$10,889,685	Coliseum Parking Garage	Sam Houston State University
April 15, 2019	Cotton Commercial Services	Unknown ^a	Services - Restoration	Texas State University System
May 1, 2019	JT Vaughn Construction, LLC	\$4,958,847	Multi-Use Recreation Fields	Texas State University
June 4, 2019	Normandy Group	\$2,116,800	Governmental Relations Services	Texas State University System
July 19, 2019	Sheply Bulfinch Richardson Abbott	\$136,200	Newton Gresham Library Renovation - Architect/Engineer	Sam Houston State University
August 19, 2019	M. Arthur Gensler Jr. & Associates, Inc.	\$294,200	Services - Campus Master Plan	Lamar University
August 27, 2019	Hill International	not to exceed \$3,000,000	Services - Program Management	Texas State University System
September 1, 2019	Blackboard Inc.	not to exceed \$8,000,000	Software - Learn Management	Texas State University System
October 2, 2019	Gallagher Bassett	\$210,000	Third Party Administrator for Auto Claims	Texas State University System
November 21, 2019	Kitchell Contractors, Inc.	\$10,853,458	Newton Gresham Library Renovation - Construction Manager-at-Risk ^b	Sam Houston State University
<p>^a This contract amount is unknown because the contract is for disaster remediation. An amount would be determined in the event that remediation was required due to a disaster.</p> <p>^b A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the institution regarding construction during and after the design of the facility.</p>				

Source: Texas State University System, and Texas Education Code, Section 71.782(b).

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