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November 28, 2011

**ASSOCIATE VICE PRESIDENT REESE
EXECUTIVE DIRECTOR HISGILOV
DIRECTOR PROPST**

SUBJECT: CORRECTED Final Report UCOP Service Agreement—Audit #11A017

Attached please find a corrected final report for: Audit No.11A017: UCOP Service Agreements. With the issuance of this final report, please destroy any previous versions. We very much appreciate the assistance provided to us by you and members of your staff during our review. If you should have any questions, please feel free to contact me at 510-987-9646 (e-mail: Matthew.Hicks@ucop.edu).

A handwritten signature in black ink, appearing to read "Matt Hicks".

Matt Hicks
Audit Director

Attachment

cc: Senior Vice President Vacca
Associate Vice President and Systemwide Controller Arrivas
UCOP/UCLA Principal Buyer Diotte
Senior Buyer Fixler
Buyer Echols
Special Service Analyst Saler
Systemwide Auditor Levintov
Systemwide Auditor Wong

UNIVERSITY OF CALIFORNIA
ETHICS, COMPLIANCE AND AUDIT SERVICES
OFFICE OF THE PRESIDENT
INTERNAL AUDIT SERVICES

UCOP SERVICE AGREEMENTS
Audit No. 11A017
October 2011

Work Performed by:
Irene Levintov, Principal Auditor

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Executive Summary

Introduction

As part of the 2010-2011 annual audit plan, Internal Audit Services conducted a review of service agreements/contracts at the Office of the President. Service agreements are initiated by the department and executed in conjunction with UCLA's Purchasing Department and occasionally Systemwide Strategic Sourcing.

The service agreements are broken into three categories: independent contractor agreements, independent consultant agreements, and professional service agreements. The scope of work determines the type of agreement to be executed. The following definitions¹ provide criteria to determine which type of agreement to issue:

- Independent Contractor: an independent contractor relationship exists when the University has the right to control on the result of the service, not the manner of performance.
- Independent Consultant (ICA): an independent consultant agreement exists when the University does not control either the manner or performance or the result of the service. Independent consultants are individuals not employed by the University, or organizations not a part of the University with proven professional or technical competence who provide primarily professional or technical advice.
- Professional Service (PSA): infrequent, technical, and/or unique functions performed by independent contractors whose occupation is rendering of such services.

Objectives and Scope

Our objective was a review of service agreements for compliance with select policies and the effectiveness of contract management by the executing department. Audit judgmentally selected 22 agreements executed in FY 2009, FY 2010, and FY 2011 (through March 2011) and reviewed supporting detail for compliance with the following policies:

- Business and Finance Bulletin 34 – Securing the Services of Independent Consultants
- Business and Finance Bulletin 43 – Material Management
- Business and Finance Bulletin 77 – Independent Contractor Guidelines
- Various Delegations of Authority

Audit procedures included interviews with pertinent personnel, detailed review of a sample of service contracts and review of relevant policies. Fieldwork was completed in August 2011.

Overall Conclusion

Based on our discussions with individual departments and the purchasing group, as well as detailed review of a sample of service agreements, we determined that some procedures are in place to ensure compliance with University policy. We also determined that procedures appear to be in place at individual departments to manage contracts.

Out of 22 contracts reviewed 21 did not obtain multiple bids prior to selecting the vendor. None of these contracts required a bidding process. We found no situation where a contract extension changed the scope of the work nor any "follow on" contracts. Purchasing became involved after vendor selection was completed in 80% of the contracts and in 3 of 22 contracts (14%) purchasing issued after-the-fact P.O.s

¹ The definitions of the services are cited from Business and Finance Bulletin 43 Material Management, Part 1 – Definitions.

Opportunities for improvement are discussed in the following section.

Action Plan

Management has developed detailed action plans that will address the issues identified in the report and as detailed in the Opportunities for Improvement section that follows.

Opportunities for Improvement and Action Plans

1. Lack of a comprehensive listing of Service Agreements

At the beginning of the audit, we noted that there is no database that aggregates the comprehensive list of UCOP Service Agreements.

Audit received multiple population listings from UCLA Purchasing listing purchase orders. This list was provided in order to identify the population of service agreements for FY 2009, FY 2010, and FY 2011. However, the list we used did not include all object codes and therefore may be missing some service agreements. Additionally, the reports did not have consistent data fields (i.e. each report had various field identifiers), and it was difficult to determine if the purchase order selected was a PSA, ICA, or Independent Contractor Agreement since a field called "type of agreement" was not available.

We believe that creating an all-inclusive database or list of service agreements will

- assist in providing more effective purchasing services
- provide an organization-wide view for making financial decisions, and
- help actively manage suppliers to our contractually negotiated prices and performance requirements

Action Plan

Systemwide Purchasing plans to implement a new purchasing contract system which will have the capacity to produce reports providing contracts segregated by type. The Director of Procurement Service, Systemwide will insure that the correct fields or data elements are included in this System to produce these reports.

Target Date: December 31, 2014

As an interim action the Special Service Analyst in the Administrative Services Center has developed an Excel spreadsheet to list active service agreements. It begins with contracts that were initiated on January 1, 2011. At this time the inventory includes only PSAs and ICA written by the ASC unit. Outreach will be done to obtain data from additional departments. This database will be kept up to date until the new System goes live.

The Systemwide Director of Procurement Services will collaborate with the UCLA Director of Purchasing to explore an alternate interim solution using the current UCLA purchasing system.

Target Date: March 31, 2012

2. Incomplete documentation for Independent Contractor Service Agreements

Per review of guidance published by Procurement Services and BUS 77 (Section V.B.2), departments are not required to complete separate contracts for Independent Contractor service agreement. Departments however, are required to complete at least a separate Purchase Order Form for each agreement.

Section V.B.2 states that Purchase Order Forms must contain: a) The Name of the individual performing the services, b) a description of the services, c) where and when the work will be performed, d) whether University supplies will be used, e) the amount of payment requested and method of computation as well as "Not to Exceed" dollar amount, f) whether the individual is presently employed by the University or related to the University, and g) whether the individual is an alien and the type of visa, etc.

In addition, per Bus 77, payments for services may only be authorized after all agreements have been executed.

During testing of independent contractor contracts we noted that it is common practice to use a Purchase Order Form as a contract between UC and the Vendor. 4 out of 10 contracts we reviewed did not contain a separate service contract with the vendor and only a Purchase Order form was used. In these instances, adequate detail was not included in the Purchase Order Form to create sufficient audit trail. For example, P.O.'s are not signed off by the vendor, and it is not clear whether the contract was approved by the authorized person from the department/division/unit with delegated authority. Note however that all instances the P.O. was approved by an authorized purchaser.

Such details would help resolve any disputes as to agreed-upon services between the vendor and UC, should any arise. In addition, to fulfill requirements of Bus 77 as noted above, Purchase Order Form used in lieu of formal agreement should include information that would have been in the separate service contract.

Action Plan

The Special Service Analyst in the Administrative Services Center in corroboration with the UCOP/UCLA Principal Buyer will develop a step by step guide on the use of Independent Contractor Agreements and P.O.'s. This guide will include templates of requisition forms and will be posted on the BASC website and used as a basis for future staff training.

Target Date: March 31, 2012

3. Confusion about authority to purchase, control budgeted funds, sign contracts

The authority to execute contracts on behalf of UC per DA 1058 is granted to Chancellors, Senior Vice President - Administration and Vice President - Agriculture and Natural Resources. This delegation was also amended in June, 2010 to name Executive Vice President - CFO as an additional University Officer with delegated authority specified in DA 1058.

During our testing, we noted that 6 out of 22 agreements tested (about 27%), were not signed by individuals with delegated authority to execute agreements on behalf of UC. Several of these individuals were in senior management roles, and it is not clear whether they were given such authority by designated UC officers or by virtue of their positions. During our discussions with individual departments, purchasing and management, we found that there is no common understanding among departments as to who, within UCOP, is able to execute agreements. For agreements with independent consultants, it is not clear whether an additional signature by the CFO is required for each agreement.

We agree that not every practice has to be documented by a delegation or a policy; however, individual departments are unclear regarding authority to execute contracts and

specific guidance is not available. Absent such guidance, there is a risk the contracts will be executed incorrectly.

Action Plan

The Systemwide Director of Procurement Service, the UCLA Director of Purchasing and the UCOP Director of Budget will develop guidelines for the use of UCOP departments as well as purchasing to determine the departmental authority to initiate service agreements. These guidelines will help clarify authority in different areas:

- *Authority to authorize purchases*
- *Authority to authorize use of budgeted funds*
- *Authority to formally enter into a contract with an external entity*
- *Authority to sign the pre-approval form*

Target Date: June 30, 2012

4. Business and Finance Bulletin 34 – Obsolete reporting requirement

Business and Finance Bulletin 34 (BUS 34) outlines requirements and procedures for securing the services of independent consultants for campus activities. Section IX, “Reporting”, of this document outlines a requirement for submission of an annual report listing all detail of all independent consultant agreements executed during the year.

Per discussion with the Executive Director of Procurement Services, we noted that Section IX of BUS 34 is outdated and should be revised.

We inquired with eleven different departments regarding the current reporting practices for independent consultant agreements – 7 departments noted that they do execute such agreements and are either not aware of the annual reporting requirement or are not submitting this report on ICAs.

In the past outside government agencies have held UC accountable for policies which were antiquated and no longer in use. Revision of this policy will remove the risk of this expectation.

Action Plan

BUS 34 is under revision as part of the UCOP wide policy project. When complete, the reporting requirement that is obsolete will be removed. The action taken in #1 of this report will provide the same information as this report did. Procurement Services tasked the Commodity Manager with ensuring that this action is completed.

Target Date: December 31, 2011