Texas Water Development Board

Review of State-Funded Grant Agreements and Contracts

Project #2018.08
November 2019

Executive Summary

We reviewed processes and controls over the administration of state-funded grant ageements and contracts for the period from September 1, 2017 to November 30, 2018. The review focused on four of the agency's major state grant programs, and evaluated all phases of grant and contract administration, from solicitation through final close-out.

The primary objective of the audit was to determine whether state-funded grants were administered in accordance with state law, rules and regulations, internal policies and procedures, as well as specific grant agreement and contract terms. We also evaluated timelines associated with key processing milestones in order to identify bottleneck areas impacting efficiency.

Overall, we found that processes and controls have been established to ensure state-funded grants were administered in accordance with the applicable requirements. Specifically:

- A soliciation process has been developed and implemented to ensure proper procurement methods were used to announce available funding.
- Controls exist to verify the grantee or contractor's compliance with statutory procurement requirements prior to award.
- A risk analysis procedure has been developed and implemented to identify high risk grant agreements and contracts that require enhanced monitoring.
- Controls exist to ensure payment requests were reviewed and approved prior to the release of funds.
- Written procedures were established for closing out completed contracts.

However, our review noted that these processes were not always consistently followed. We identified the following areas in which improvements should be made to ensure:

- Written procedures for solicitation practices and verifying compliance with procurement requirements are updated, and key documentation related to these processes is retained.
- State-funded grant agreements and contracts are reported to the Legislative Budget Board in accordance with the General Appropriations Act.
- Risk is reassessed, as needed, so that the appropriate level of monitoring can be applied and performed, and the risk analysis methodology is periodically reviewed to validate attributes are relevant, and scores and ratings represent a more accurate assessment of grant and contract risk to the agency.
- Consistent and uniform monitoring activities are performed to improve accountability for tracking and meeting deliverables.
- Payment requests are received timely, include adequate documentation to support expenses and to verify certain contract terms, and advance payments are processed accurately.
- Timelines and goals for processing grant applications are formalized and measured.

Management should also consider enhancements to information systems used in grant and contract administration to reinforce the recommended procedural updates and to provide contract specialists and managers with the tools needed to more effectively assess and proactively mitigate grant and contract risk, track performance and progress, and accurately and efficiently process payments.

Background

The Texas Water Development Board (TWDB) administers a variety of state-funded grant programs that provide for the planning, acquisition, design, and construction of water-related infrastructure projects and other water quality improvements.

Four of the agency's financial assistance programs administer the majority of all state-funded grant agreements and contracts. These four programs include:

Grant Program	Financial Assistance Objective(s)
Economically Distressed Areas Program (EDAP)	For projects serving economically distressed areas where water or sewer services do not exist, or systems do not meet minimum state standards.
Flood Protection	For the development of plans focused on prevention and corrective measures that provide protection from flooding, including reducing loss of life and property due to flood.
Agriculture Water Conservation	For technical assistance, demonstration, technology transfer, research and education, and metering projects that promote water conservation. Supporting agricultural irrigation strategies consistent with the state water plan and related conservation best practices and demonstrations.
Regional Water Planning	For the development and preparation of the state's regional water plans.

From September 1, 2017 to November 30, 2018, the agency had a total of 138 grant agreements and contracts from these four state-funded grant programs, of which 125 were in an active status and 13 were closed.

Grant Program	Active	Closed
EDAP	23	8
Flood Protection	25	3
Agriculture Water Conservation	61	2
Regional Water Planning	16	0
Total	**125**	**13**

Active grant agreements and contracts totaled $208,098,383 and closed grant agreements and contracts totaled $5,164,640.

Grant Program	Active	Closed
EDAP	$155,778,732	$4,538,430
Flood Protection	$15,289,432	$398,067

Agriculture Water Conservation	$21,156,054	$228,143
Regional Water Planning	$15,874,165	$0
Total	**$208,098,383**	**$5,164,640**

We selected a sample of 11 grant agreements and contracts from this time period to perform tests to determine whether they were processed in accordance with applicable rules and requirements, and to analyze processing milestones and deliverables. The sample of 11 included:

- Three EDAP grant agreements,
- Three Flood Protection contracts,
- Three Agriculture Water Conservation contracts, and
- Two Regional Water Planning contracts.

Of these 11, nine grant agreements and contracts were in an active status and two contracts were closed.

State-funded grants were administered using two different processing methods. EDAP funds were administered as grant agreements, and although they followed the agency's processes designed for construction assistance projects, with a few exceptions, they were also subject to the agency's standard contracting practices. All other state-funded grants were administered as contracts and followed the agency's standard contracting processes and practices.

In order to fully execute a grant agreement or contract, participation and approvals were required from program management, Legal, Budget, Accounting, and Executive Administration. In addition, the following two positions within the agency carried out the primary roles and responsibilities related to administering and managing the grant agreements and contracts:

- Contract Manager
  Contract managers were the designated contact and lead for their assigned grant agreements or contracts. They were responsible for initiation and execution, as well as monitoring the progress of work performed by the contractor. Organizationally, contract managers resided in each program area within the Office of Water Supply & Infrastructure (WSI) and the Office of Water Science & Conservation (WSC).

- Contract Specialist
  Contract specialists helped ensure consistent and compliant coordination, tracking, and administration of grant agreements and contracts. Contract specialists were located within the Contracting & Purchasing Section (Contract Administration) of the Office of Operations & Administration (O&A).

The State of Texas Procurement and Contract Management Guide, released by the Comptroller's Statewide Procurement Division, provides the framework for implementing statutory procurement and contracting requirements. TWDB Contracting Policies and Procedures outline agency processes used to administer and manage state-funded grant agreements and contracts.

Texas Water Code, Sections 15.008 and 17.935, and Texas Government Code, Section 783.003(3), as it relates to special-purpose districts, exempt the four state-funded grant programs included in this

review from the standard financial management conditions and uniform assurances prescribed by the Uniform Grant and Contract Management Act of 1981 (Uniform Grant Management Standards). However, these standards were designed to promote the efficient use of public funds in local government and therefore, provide a best-practice framework for managing state grant funds.

Additionally, General Appropriations Act (84th and 85th legislatures) includes requirements for state agencies to report certain grant agreements and contracts to the Legislative Budget Board.

Information systems and applications used to administer and manage state-funded grant agreements and contracts included:

- Contract Administration System (CAS), administers and tracks agency contracts, including those using state grant funds.
- Texas Water Information System Enhancement (TxWISE), administers and tracks construction assistance projects, such as EDAP grant agreements.
- Micro Information Product (MIP), an internal accounting application that processes grant agreement and contract payments.

Objectives, Scope, and Methodology

Objectives

The primary objective of the audit was to determine whether the agency established processes and controls to ensure that state-funded grants were awarded, administered, and managed in accordance with state law, rules and regulations, internal policies and procedures, as well as specific grant agreement and contract terms and requirements. Specifically, the review assessed the solicitation, evaluation and scoring, grant agreement and contract formation and award, and the management and oversight phases of grant and contract administration.

We also evaluated timelines associated with key processing milestones in order to identify bottleneck areas impacting efficiency.

Scope and Methodology

The scope of this project covered active and closed state-funded grant agreements and contracts administered from September 1, 2017 to November 30, 2018, as well as any related periods.

The methodology for the audit consisted of a review of the following information:

- Texas Water Code, Chapters 15, 16, and 17.
- Title 31, Texas Administrative Code, Part 10, all related Chapters.
- General Appropriations Act (84th and 85th Legislature).
- State of Texas Procurement & Contract Management Guide (Version 1.1), August 2018.
- TWDB Contracting Policies and Procedures, October 2017.
- Standard grant and contract administration and monitoring forms, instructions, and other documentation.

- Request for applications, application responses, board items, and scoring summaries.
- Grant agreements, contracts, and amendments.
- Payment requests, invoices, outlay and escrow release summaries, and supporting documentation.
- Progress, draft, and final reports.
- Grant agreement and contract data, and related queries from CAS, TxWISE, and MIP.

Tests and procedures included the following:

- Conducted interviews and walk-throughs with management and staff.
- Reviewed applicable statutes, rules, and reporting requirements.
- Reviewed state contract guidance, agency policies and procedures, and grant agreements and contracts.
- Tested a sample of grant agreements and contracts and validated compliance with all applicable laws, rules, and requirements.
- Tested a sample of grant agreements and contracts and documented dates that key processing milestones were met, and deliverables were received.
- Reviewed grant agreements and contract information from CAS, TxWISE and MIP and validated data integrity.
- Reviewed contract manager job descriptions.
- Inspected documentation and observed tasks to determine whether controls were operating as designed.

This engagement was conducted in accordance with *Generally Accepted Government Auditing Standards* and the *International Standards for the Professional Practice of Internal Auditing*. These 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 observations and conclusions based on our audit objectives.

The audit team consisted of:

Michelle Cooper, CFE, CGAP, CICA
Nicky Carter, CICA
Nicole Campbell, CIA, CISA

Detailed Results

1. **A solicitation process has been developed and implemented; however, written procedures should be updated and date-stamped response documents should be retained.**

We evaluated solicitation documents to determine whether grant agreements and contracts were correctly procured and advertised in accordance with the Comptroller's Texas Procurement and Contract Management Guide (TPCMG) and the agency's contracting policies and procedures.

Written solicitation procedures required that application responses were date-stamped and entered into an electronic log or spreadsheet; however, they did not clarify the following, as required by the TPCMG:

- Official timepiece used for determining receipt,
- Marking process used to document the date and time each response was received,
- Method for securing responses until the published response due date and time,
- Process to be followed after inadvertent opening of responses received, or
- Designated agency staff responsible for these tasks.

Additionally, although receipt dates were entered into the agency's contracting system, the information was not entered into an electronic log or spreadsheet in accordance with the written procedure, and a copy of the date-stamped response document was not retained in the contract or solicitation file.

Without a copy of the date-stamped response document, we could not confirm that the receipt dates entered into the contracting system were accurate and the responses were received by the due date and time established within the solicitation.

We also noted that written procedures did not specify the solicitation practices for EDAP grant agreements.

Recommendations

Management should:

a) Update written solicitation procedures to include additional detail for receiving application responses as required by the TPCMG and to specify the solicitation practices for EDAP grant agreements.

b) Develop and implement a process to ensure date-stamped response documents are retained.

Management Response

a) *O&A Management agrees. Section 3.3 of the contracting policies and procedures will be updated to include more detailed requirements for all solicitation forms, including the application process for EDAP grants. Procedures will be validated for consistency with the TPCMG.*
Responsible Party: David Carter, Director, Support Services and Contract Administration
Implementation Date: 08/31/2020

b) *O&A Management agrees. Section 3.3 of the contracting policies and procedures will be updated to include more detailed requirements for all solicitation forms, including the application process for EDAP grants. As an interim measure to implement this requirement, hardcopy date-stamped applications are already being retained in one location for each application package received by Contracting and Purchasing. Checklists are available for the application process to ensure documentation is properly received. With improvements to the Contract Administration System (CAS), in the future, a permanent solution will include uploading date-stamped copies of cover pages to the system as a measure of efficiency and consistency. Contract Administration will further collaborate with teams from WSI (specifically for EDAP grant agreements) and WSC to update procedures appropriately. All updates will be verified for consistency with documented requirements in the TPCMG.*
Responsible Party: David Carter, Director, Support Services and Contract Administration
Implementation Date: 08/31/2020

2. **Compliance with procurement requirements was verified prior to award; however, written procedures should be improved, supporting documentation of each verification should be retained, and the process should be consistently followed.**

A standardized form was used to process state-funded grants administered as grant agreements and contracts. This form included a section, used by the contract specialist, as a checklist to complete throughout the contract administration process. The checklist provided an area for the contract specialist to initial as compliance with each procurement requirement was confirmed.

For example, the checklist required the contract specialist to verify that the contractor was not on the Comptroller's debarred vendor list, the United States Treasury Department's master list of specially designated nationals and blocked persons list, or the Texas Safekeeping Trust Company's divestment lists.

Our review noted that although the forms were initialed by the contract specialist to indicate compliance verifications were conducted, supporting documentation of the status of each verification was not retained.

Written procedures addressed the preparation of the standardized form and the form itself provided some instructions. However, we did not find clear guidance to contract specialists on the specific compliance requirements that must be verified, how to perform each verification, or any language requiring the retention of dated, supporting documentation.

Additionally, one EDAP grant agreement did not use this standardized form; therefore, compliance with procurement requirements was not confirmed prior to award in accordance with the agency's contracting policies and procedures.

Recommendations

Management should:

a) Improve written procedures for verifying procurement requirements to include sufficient detail for contract specialists to consistently validate all procurement requirements.

b) Develop and implement a process to ensure dated, supporting documentation of each verification is retained.

c) Strengthen controls to ensure verifications of compliance with procurement requirements are consistently performed, including for the administration of EDAP grant agreements in accordance with the agency's contracting policies and procedures.

Management Response

a) *O&A Management agrees. Policies and procedures will be updated to reflect these procedural changes and to properly capture compliance requirements for the inclusion of EDAP agreements. Contract Administration will collaborate with WSI stakeholders to implement this requirement.*
   Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
   Implementation Date: *08/31/2020*

b) *O&A Management agrees. Contracting and Purchasing has already implemented a process to ensure the dated, supporting documentation is included for each contract and grant agreement when the routing process is initiated. Documentation is loaded into CAS when agreements are routed in DocuSign for execution. Policies and procedures need to be updated to reflect these procedural changes and to properly capture compliance requirements for the inclusion of EDAP agreements. Procedures will address retaining the information in the CAS. Contract Administration will collaborate with WSI stakeholders to implement this requirement.*
   Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
   Implementation Date: *08/31/2020*

c) *O&A Management agrees. Procedures will be updated to include control mechanisms and verifications to ensure compliance with policies and procedures. Contract Administration will collaborate with WSI stakeholders to implement this requirement.*
   Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
   Implementation Date: *08/31/2020*

3. **Existing processes should be strengthened to ensure state-funded grant agreements and contracts are reported in accordance with the General Appropriations Act.**

Article IX, Sections 7.04 and 7.12 of the General Appropriations Act (84th and 85th legislatures) established reporting requirements for state agencies. Specifically:

- Section 7.04 states that all contracts, grants, and agreements that exceed $50,000, and any amendment, modification, renewal or extension which increases the amount to a value greater than $50,000, must be reported to the Legislative Budget Board within 30 days of award or modification.

- Section 7.12 states that all contracts, grants, and agreements that exceed $10 million must be reported to the Legislative Budget Board before the first payment and not later than 30 days of award, and also requires an attestation letter that certifies the agency's compliance with the TPCMG, and all applicable statutes, policies, and rules related to procurement.

Although processes have been developed and implemented for reporting contracts, our review noted that state-funded grant agreements and contracts, as those included in our sample, were not reported to the Legislative Budget Board (LBB).

It was also noted that the LBB's contract management system, used to report and upload contract information and documentation in order to meet these requirements, did not offer a specific category to differentiate contracts used to administer state grant funds, from contracts used to purchase goods and services that directly supported the agency's operational activities.

Recommendations

Management should:

a) Strengthen processes to ensure Legislative Budget Board reporting requirements are met in accordance with the General Appropriations Act for state-funded grant agreements and contracts.

Management Response

a) *O&A Management agrees. As noted in the observations above, the LBB system has not provided a clear reporting category for grants to be reported, which formed the basis of a misinterpretation of reporting requirements. In statute, the reporting requirement appeared to only apply to contracts for "goods and services" as shown here:*

Sec. 7.04. Contract Notification: Amounts Greater than $50,000.
*"(a) In this section "contract" includes a contract, grant, or agreement, including a revenue generating contract, an interagency or interlocal grant or agreement, purchase order or other written expression of terms of agreement or an amendment, modification, renewal, or extension of such for the **purchase or sale of goods or services** that was entered into or paid for, either in whole or in part, by a state agency or institution of higher education."*

*With the feedback received from the LBB now confirmed, Contract Administration will update procedures to include applicable grants and further collaborate with WSI concerning EDAP reporting. Contract Administration will **immediately** report all state funded grants in the LBB system and categorize them under "Purchases or Sales greater than $50k." Procedures will be verified for consistency with the TPCMG and include explicit documentation for the category or reporting that will be submitted for grants. Additional guidance will be requested from the LBB to ensure reporting is properly submitted consistent with their expectations.*
Responsible Party: *David Carter, Director, Support Services and Contract Administration*
Implementation Date: *12/02/2019*

4. **A risk analysis procedure has been developed and implemented for state-funded grants; however, controls should be strengthened to ensure grant and contract risk is reassessed as needed, the risk methodology used to determine overall risk scores and ratings should be periodically reviewed, and the process should be consistently followed.**

Effective September 1, 2015, Texas Government Code, Section 2261.256 (a) required state agencies to establish a risk analysis procedure to identify contracts that require enhanced monitoring. In its Texas Procurement and Contract Management Guide, the Comptroller issued additional guidance to assist state entities with the implementation of this provision. As a result, the agency updated contracting policies and procedures to include a risk analysis process that required enhanced monitoring for all contracts receiving an overall rating of high risk. Additionally, the risk analysis methodology and procedures were last revised in March 2016.

Of the 11 grant agreements and contracts included in our sample, six were executed prior to the effective date; therefore, the risk analysis process did not apply. These six included:

- Three EDAP grant agreements,
- Two Regional Water Planning contracts, and
- One Agriculture Water Conservation contract.

The remaining five in our sample, executed after September 1, 2015 and subject to the risk analysis requirement, included:

- Three Flood Protection Planning contracts, and
- Two Agriculture Water Conservation contracts.

Of these, we found that the agency's risk analysis process was not consistently followed. For example, we could not find record of a completed risk analysis in the contracting system for two contracts, and one risk analysis was not signed by the required staff. We also noted that completed risk analyses were not reviewed by the contract manager's supervisor.

Overall risk scores for the three analyses that were completed resulted in a classification of "low risk," and as a result, enhanced monitoring was not required to be conducted according to the written procedures. However, our review identified instances where certain deliverables for these contracts – including quarterly progress reports, draft reports, and payment requests - were not met timely and in accordance with contract terms.

Issues with meeting deliverables, submitting payment requests, or complying with the terms of the contract may warrant additional monitoring activities. According to the Texas Procurement and Contract Management Guide, initial risk assessments should be updated to reflect the results of monitoring, reviews, and other oversight activities. If issues are noted through monitoring activities, an elevated risk should be reflected in the risk assessment, which could impact how the contract is monitored in the future[1].

Recommendations

Management should:

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[1] Texas Procurement and Contract Management Guide (August 2018), Planning and Risk Assessment Tools, pg. 92.

a) Develop and implement a process to ensure risk scores and ratings are reassessed, as needed, so that the appropriate level of monitoring can be applied and performed for the remaining term of the grant or contract.

b) Strengthen controls over the risk analysis process to ensure final risk scores and ratings are confirmed and approved by incorporating a supervisory-level review of the completed risk analysis.

c) Update written risk analysis procedures to reflect improvements made to the risk analysis process.

d) Periodically review and update, as needed, the risk analysis methodology to ensure risk attributes are relevant, and risk scores and ratings represent a more accurate assessment of grant or contract risk to the agency.

e) Strengthen controls to ensure risk analyses are consistently completed and supporting documentation is retained, including instances when the reassessment of risk is necessary.

f) Consider enhancements to information systems used in grant and contract administration to reinforce the recommended procedural updates and to provide contract managers with the tools needed to more effectively assess and proactively mitigate grant and contract risk to the agency. Enhancements may address the ability to capture risk scores, provide risk-related reports, send automated notifications of outstanding deliverables, and provide alerts for the potential need to reassess risk.

Management Response

a) *O&A Management agrees. Opportunities are present to significantly improve the risk assessment process in practice and procedure. It should be noted that part of the inconsistency in reporting for state-funded grants was a misinterpretation of statute that risk assessments were only to be conducted for contracts for goods and services. Current enhancements are underway to CAS relating to the risk assessment methodology. Those enhancements are expected to be completed during fiscal year 2020. Procedures will be updated for consistency with the TPCMG.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: 08/31/2020

b) *O&A Management agrees. A mechanism is in place for Contract Administration management to verify and approve the risk assessments of contracts. Additional layers of approval will be incorporated into the new risk assessment process to allow for business-area supervisory approvals as well.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: 08/31/2020

c) *O&A Management agrees. Policies and procedures will be updated accordingly based on the implementation of requirements in items 'a' and 'b' in collaboration with WSI and WSC stakeholders.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing

Implementation Date: *08/31/2020*

d) *O&A Management agrees. Policies and procedures will be updated to add requirements for regular risk methodology reviews to ensure the approach continues to be appropriate.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
Implementation Date: *08/31/2020*

e) *O&A Management agrees. Policies and procedures will be updated to strengthen controls and address documentation and timing requirements of risk analyses. WSI Management agrees. In accordance with the procedures established by Contract Administration, WSI contract managers currently prepare the risk assessment of contracts for Regional Water Planning grants and for goods and services. However, this contracting risk procedure has not been applied by contract managers for the historical EDAP grant agreements. Rather, other risk assessments are applied to those grant agreements (e.g. an applicant's financial capacity, etc.). Regional Water Project Development will develop criteria for reassessment of EDAP contract risk as projects progress that will reflect possible decreases or increases in risk. The criteria will also include what additional oversight is required based on level of risk.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing (as coordinated with Ivan Ortiz, Program Specialist, Flood Science & Community Assistance (FSCA), Grant Coordination, WSC; Cameron Turner, Manager, Conservation & Innovative Water Technologies (CIWT), Agriculture Water Conservation (AWC), WSC; Temple McKinnon, Director, Water Use, Projections, & Planning (WUPP), WSI; Clay Schultz, Director, Regional Water Project Development (RWPD), WSI)*
Implementation Date: *08/31/2020*

f) *O&A Management agrees. Updates to CAS are already in development to establish the solution to this recommendation. Deployment of the new tool is scheduled for release in fiscal year 2020 and policies and procedures will be updated accordingly. Automated messaging and alerts functionality may be considered for current or future system enhancements.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
Implementation Date: *08/31/2020*

5. **Monitoring processes should be enhanced to ensure consistency and uniformity in practice, and to improve accountability for tracking and meeting deliverables.**

Contract managers were responsible for monitoring their assigned grant agreements and contracts in order to ensure conformance with the terms and conditions. Monitoring activities were performed on grant agreements or contracts that received an overall risk score of low to medium.

Enhanced monitoring activities were also carried out by the assigned contract managers. Enhanced monitoring provided an increased level of oversight – beyond the standard level of monitoring normally performed. Enhanced monitoring was required on grant agreements and contracts that received an overall risk rating of high.

Our review found that written procedures to address monitoring activities did not provide sufficient detail to direct the assigned contract managers in carrying out the related processes. For example, the guidance did not:

- Establish preferred methods for contact and correspondence with grantees and contractors.
- Require contract managers to retain documentation of certain monitoring activities.
- Clarify guidance for determining whether an event should be considered significant.
- Outline progressive steps available for deficient grantee or contractor performance, such as specific corrective actions or remedies.
- Provide standardized tools to help capture, track, and document, key monitoring information.

As a result, we noted inconsistencies in each contract manager's approach to performing the standard monitoring activities.

- Contract managers assigned to Agriculture Water Conservation contracts sent email notifications to their assigned contractors to remind them to submit progress reports. They also used a spreadsheet to track their contact with the contractor that included documenting the date of contact, highlights about the discussion, and notes on the status of any outstanding or late deliverables. Of the three contracts reviewed from this program, we did not identify any late or missing quarterly progress reports.

- Contract managers over Flood Protection and Regional Water Planning contracts did not have a specific mechanism in place to track their contact with the contractors, or the status of outstanding or late deliverables. Of the five contracts reviewed from these two programs, we noted nine of 29 quarterly progress reports were not submitted timely[2]. Although the contract managers stated that they had followed-up with the contractors regarding these issues, there was no documentation to validate the monitoring activities occurred.

- Contract managers over EDAP grant agreements tracked project status in TxWISE, and any schedule changes to construction-related completion dates required Board-approved amendments. Although quarterly progress reports for recent projects were maintained in TxWISE, reports for older projects were not uploaded into the system. As a result, we could not review submission dates for two of the three EDAP grant agreements included in our sample. However, for the one remaining agreement, we noted three of six quarterly progress reports were not submitted timely[3].

As noted previously, there were no grant agreements or contracts included in our sample and subject to the risk analysis requirements, that received an overall risk rating of high. Therefore, we could not evaluate the process to determine whether contract managers performed enhanced monitoring in accordance with the agency's written procedures. However, we noted that although the procedures were more detailed than those outlined for standard monitoring, they did not include all of the elements described above.

Additionally, the terms *grant* and *contract* were used synonymously by contract managers and other agency staff. For example, state-funded grants administered as contracts were often referred to as simply "grants." We found that the interchangeable use of these two terms created confusion as to which contracting policies and procedures a particular grant agreement or contract was either required, or not required, to follow. We also noted that the agency's interpretation of the enabling

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[2] The reports were submitted between two and ten months after their estimated due date.
[3] The reports were submitted between two and ten months after their estimated due date.

law and certain exemptions to grant management standards, as well as the applicability of statutory procurement and reporting requirements, was not always clear or documented.

Recommendations

Management should:

a) Strengthen controls to ensure deliverables relating to reporting requirements are met in accordance with the terms and conditions of the grant agreement or contract.

b) Update written procedures and guidance materials to:
    o Provide sufficient detail for contract managers to consistently carry out monitoring responsibilities and improve accountability for tracking and meeting deliverables,
    o Clearly define the terms *grant* and *contract* as they apply to the agency's various grant programs, and to promote uniformity, provide a clear understanding of which statutory requirements apply to each and the appropriate policies and procedures to follow when administering and managing the related funds, and
    o Reflect improvements made to monitoring-related processes.

c) Provide training on monitoring policies, procedures, and agency-specific tools available to assist with grant and contract management.

d) Consider enhancements to information systems used in grant and contract administration to reinforce the recommended procedural updates and to provide contract managers with the tools needed to more effectively track grantee and contractor performance and progress. Enhancements may address the ability to upload and submit documentation, send automated notifications of outstanding deliverables, provide alerts for upcoming contract expirations, and provide coding to classify grants and contracts and distinguish between state and federal funding types.

Management Response

a) *O&A Management agrees. Current updates to CAS include an initial round of automated solutions and future enhancements may further strengthen these controls. In addition, Contract Administration will be developing and conducting a variety of internal contract manager trainings which will further strengthen controls.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing (as coordinated with Ivan Ortiz, Program Specialist, FSCA, Grant Coordination, WSC; Cameron Turner, Manager, CIWT, AWC, WSC; Temple McKinnon, Director, WUPP, WSI; Clay Schultz, Director, Regional Water Project Development (RWPD), WSI; Mark Wyatt, Director, Program Administration & Reporting (PAR), WSI)
Implementation Date: 08/31/2020

WSI Management agrees. As for improvements in WSI's processes, our business areas will create a checklist of contract management requirements for documentation as part of our contract management / grant agreement work process documents (e.g. WSI WPD 1022 and new EDAP procedures to be developed in conjunction with rule changes by 8/31/2020). WUPP will take the lead on developing a best management practices guide, in accordance with

anything produced by Contract Assessment and Innovation Team and Contract Administration, for use by our office contract managers; including measures to ensure deliverables are met in accordance with the grant agreement or contract.
Responsible Party: *Temple McKinnon, Director, WUPP*
Implementation Date*: 08/31/2020*

b) *O&A Management agrees. Policies and procedures will be updated accordingly. The terms grant and contract will be defined clearly. Distinctions are being deployed in CAS to categorize 'grants' and 'contracts' for reporting.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
Implementation Date*: 08/31/2020*

c) *O&A Management agrees. Contract Administration, in working with the Contract Assessment and Innovation Team and the WSC Contracts Team, will be developing and conducting internal contract manager training courses.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
Implementation Date*: 08/31/2020*

d) *O&A Management agrees. Steps are underway to deploy additional controls and monitoring functions in CAS to ensure compliance with terms and conditions through automation. The terms grant and contract will be defined clearly. Distinctions are being deployed in the CAS to categorize 'grants' and 'contracts' for reporting. Future enhancements to further strengthen management and tracking of contracts and grants may be considered.*
Responsible Party: *Angela Wallace, Manager, Contracting and Purchasing*
Implementation Date*: 08/31/2020*

6. **Payment requests were reviewed and approved prior to the release of funds; however, controls over the payment process should be strengthened to ensure requests are received timely, adequate documentation is submitted to support expenses and to verify certain contract terms, and only eligible advance payments are processed.**

From the sample of 11 grant agreements and contracts, we evaluated a total of 38 individual payment requests to determine whether they were processed in accordance with the applicable requirements.

- Flood Protection and Agricultural Water Conservation programs followed standard cost-reimbursement procedures for the payment of authorized grant expenditures.
- Regional Water Planning program used an advance payment method based on total committed funds.
- EDAP grants were awarded to entities for the financing of planning, design, and construction of water supply and wastewater infrastructure projects; therefore, their payments followed the agency's outlay process[4] for releasing funds.

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[4] Outlay reports are documentation that is required to be submitted to the agency on a monthly or quarterly basis throughout the life of a water supply or wastewater project. The outlay report is also the mechanism used to request disbursements for installment-based programs and/or an escrow release for escrow-based programs where outlays are required for the release of funds.

For those contracts that used a standard cost reimbursement procedure, we selected the most recent payment request and supporting documentation to review[5]; however, for contracts that used the advance payment method, it was necessary to review all processed payments in order to correctly calculate the amount of the most recent advance payment. Additionally, a random outlay was selected for review for the EDAP grants in our sample.

Payment requests and their supporting documentation were evaluated to determine whether payments were reviewed and approved by the appropriate staff, adequately documented, and expenses were authorized by the terms and conditions of the grant agreement or contract.

Our review noted that payment requests were reviewed and authorized by the contract manager, contract specialist, and accounting staff prior to the release of funds; however, we found that not all payment requests were submitted timely, documentation was not always adequate to support the expense or to verify certain contract terms, and ineligible advance payments were processed. Specifically, we noted the following:

Timely Submission
Payment requests, for the two Regional Water Planning contracts in our sample, were not submitted on a quarterly basis, as required by the contract terms. Article I, Item T of the contract requires payment requests to be submitted a minimum of quarterly. Of 15 payment requests reviewed between these two contracts, we noted eight instances where requests were not submitted timely[6].

Submitting late payment requests impacts staff workload, and subsequently, payment processing time and efficiency, as the contract specialists and contract managers are required to review a greater quantity of invoices and supporting documentation for each request prior to the release of funds.

Interest-Bearing Account
Supporting documentation did not exist to verify that all advanced funds were deposited into a separate interest-bearing account for the two Regional Water Planning contracts in our sample, as required by the contract terms. Article IV, Item I of the contract requires that "*All advanced funds received must be deposited into a separate interest-bearing account by the contractor.*" Additionally, Article IV, Item J clarifies that, in addition to a listing of actual expenses incurred and documents showing payment of such expenses, *"the contractor will provide statements or documents showing any interest earned on the previous advance, as this will be considered as part of the agency's payment of committed funds and used only for committed funds."*

Eligible Advance Payments
Invoices were submitted by one Regional Water Planning contractor for paid expenses that did not equal 90% of the previous advance, as required by the contract. Therefore, the contractor was not eligible to receive another 20% advance payment of the committed funds. Article IV, Item J of the contract specifies that, "*when the contractor has paid expenses equal to 90% of the previous advance, the contractor will submit a written request to the executive administrator for another 20% advance of the committed funds.*"

We also noted that spreadsheets were used by the contract specialist to determine whether the contractor was eligible to receive the advance payment and to calculate the total payment amount.

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[5] Testing was expanded, as needed, as discrepancies regarding the most recent payment were identified.
[6] The reports were submitted between three and 13 months after their estimated due date.

The manual nature of this process resulted in two instances where the contractor's eligibility for the advance payment was based on miscalculations. Paid expenses in these instances totaled $39,938 less than the required amount per the terms and conditions of the contract, and subsequently, resulted in two ineligible contractor advance payments totaling $609,856.

<u>Estimates and Quotes</u>
Payment requests submitted by one Agricultural Water Conservation contractor were not supported by valid invoices. Of the seven payment requests reviewed totaling $220,866 for reimbursement of equipment costs, $73,238 was reimbursed to the contractor based on a combination of estimates, quotes, and proposals.

Invoices itemize an accurate and complete accounting of expenses incurred. The agency's contracting policies and procedures require that the assigned contract manager reviews each invoice submitted for their contracts and ensure they conform to the terms and conditions of the contract. Article V of the contract states that the agency *shall reimburse the contractor for the agency's share of each invoice,* and *the contractor and its subcontractors shall maintain satisfactory financial accounting documents and records, including copies of invoices and receipts, and shall make them available for examination and audit by the executive administrator.*

Recommendations

Management should:

a) Strengthen controls to ensure payment requests are submitted by contractors timely and in accordance with the terms and conditions of the contract.

b) Develop and implement a process to verify advanced funds are placed in a separate interest-bearing account and consider any interest earned on previous advances in the agency's payment of committed funds, as required by the terms and conditions of the contract.

c) Strengthen controls to ensure valid invoices are used to support payment requests, and advance payment eligibility and calculations are processed accurately.

d) Update written procedures to reflect improvements made to payment-related processes.

e) Provide training on payment policies, procedures, and agency-specific tools available to assist with grant and contract management.

f) Consider enhancements to information systems used in grant and contract administration to reinforce the recommended procedural updates and to provide contract specialists and managers with the tools needed to accurately, and more efficiently, process payments. Enhancements may address the ability to upload and submit payment requests and documentation, allow for automated notifications relating to payment requests, and provide ability to calculate payment advance eligibility and payment totals.

Management Response

a) *O&A Management agrees. Controls will be strengthened through contractor communication. Enhancements to CAS are also under development. The ability for the system to push automated notifications may be considered for a future enhancement. However, a redesign of a number of financial data fields is currently under development to address payment recommendations as noted that will improve consistency and efficiency with payment processing.*
__Responsible Party:__ Angela Wallace, Manager, Contracting and Purchasing (as coordinated with Ivan Ortiz, Program Specialist, FSCA, Grant Coordination, WSC; Cameron Turner, Manager, CIWT, AWC, WSC; Temple McKinnon, Director, WUPP, WSI; Clay Schultz, Director, RWPD, WSI; Mark Wyatt, Director, PAR, WSI)
__Implementation Date__: 08/31/2020

WSI Management agrees. As for improvements in WSI's processes, WUPP will take the business area lead to create a checklist of contract management requirements for documentation as part of our contract management work process document (WSI WPD 1022) and develop a best management practices guide for use in our office, including measures to ensure payment requests are submitted by contractors in accordance with the grant agreement or contract for Regional Water Planning or other goods and services contracts. EDAP payment requests will continue to be handled through the Outlay's process. Additionally, future RWPG and other related contracts will have an extended payment request period to more reasonably accommodate the typical payment request cycles under these contracts (i.e. extend it from the current three-month requirement.) WUPP will coordinate with Contract Administration during contract boilerplate language revisions and with payment request staff for clear direction on current practices and expectations of acceptable payment request information from contractors.
__Responsible Party:__ Temple McKinnon, Director, WUPP; Clay Schultz, Director, RWPD; Mark Wyatt, Director, PAR
__Implementation Date__: 08/31/2020

b) *O&A Management agrees. Policies and procedures will be enhanced regarding the payment of advanced funds. Contractors are already required to report interest earnings on the limited set of contracts where advanced funds are eligible for disbursement. Contract Administration will collaborate with program staff in WSI and WSC to deploy new methods for verification of funds.*
__Responsible Party:__ Angela Wallace, Manager, Contracting and Purchasing
__Implementation Date__: 08/31/2020

c) *O&A Management agrees. Controls are in place but can be strengthened to ensure invoices and supporting documentation are submitted and maintain appropriate supporting documentation. One key issue as an example is that that some of the agricultural equipment vendors use the terms quotes, estimates, proposals, and invoices interchangeably. This control can be strengthened through contractor communication. Overall controls and associated policies will be updated appropriately.*
__Responsible Party:__ Angela Wallace, Manager, Contracting and Purchasing
__Implementation Date__: 12/31/2019

d) *O&A Management agrees. Policies and procedures will be updated accordingly based on any improvements deployed for payment related processes.*

Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: *08/31/2020*

e) *O&A Management agrees. A variety of trainings will be conducted for contract managers and policies and procedures will be updated during fiscal year 2020.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: *08/31/2020*

f) *O&A Management agrees. Enhancements to CAS are currently under development. A redesign of several financial data fields is under development to address payment recommendations as noted that will improve consistency and efficiency with payment processing. Future enhancements to make the payment process even more efficient may be considered.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: *08/31/2020*

7.   Written procedures for closing out completed contracts exist; however, the process should be consistently followed to ensure data maintained in the contracting system is accurate.

While the majority of state-funded grants were administered through the agency's contracting system (Contract Administration System, CAS), EDAP state-funded grants were processed through the agency's construction assistance project tracking system (Texas Water Information System Enhancement, TxWISE).

Data from each of the systems was pulled and reconciled to the agency's internal accounting application (Micro Information Product, MIP), in order to identify and validate the total population of both active and closed grant agreements and contracts for the scope of the audit.

Through this data validation process, we identified differences between the CAS and MIP data sets. While a portion of the total differences were resolved, we noted that a significant percentage resulted from inconsistencies in the status recorded in the two systems. Some contracts had been closed in MIP, yet remained in an active status in CAS, although the supporting documentation indicated they had been completed.

Written procedures require that the status of contracts maintained in CAS must be updated in the system to reflect that they are complete, once all tasks and pending items have been finalized. However, our review concluded that these procedures were not followed in the instances noted above.

Recommendations

Management should:

a) Strengthen controls to ensure completed contracts are closed out in CAS timely and in accordance with written procedures by incorporating a periodic reconciliation of CAS data to MIP data to validate the integrity of the data maintained in the contracting system.

Managements Response

a) *O&A Management agrees. Additional steps will be taken to improve and normalize the contract closure process and ensure that MIP and CAS can be reconciled properly. Steps are underway to strengthen the process now and checklists are being updated to ensure completeness of the process. New automated tools are being added to CAS to ensure proper closure steps are followed prior to a status change to complete.*
Responsible Party: Angela Wallace, Manager, Contracting and Purchasing
Implementation Date: 04/30/2020

8. Timelines and goals for processing applications should be formalized and consistently measured, and additional steps should be taken, as needed, to improve efficiency.

For the 11 grant agreements and contracts in our sample, we documented each date a key processing milestone was completed in order to identify bottleneck areas that may impact the efficiency and effectiveness of grant and contract administration.

Contracts
The majority of applications for state-funded grants were administered as contracts and followed the standard agency contracting processes and practices. Applications were received by Contract Administration, sent to the program area's review team for evaluation and scoring, and final recommendations were presented to the Board for approval in order to proceed with contract development. Once Board approved, the contract manager worked with contract specialists, as well as Legal, Budget, and Accounting, to prepare the appropriate documentation and obtain the required approvals in order to execute the contract. Our sample included eight state-funded contracts processed in this manner, consisting of three Flood Protection, three Agriculture Water Conservation, and two Regional Water Planning.

Grant Agreements
EDAP funds were administered as grant agreements and followed processes designed for construction assistance projects, as well as standard contracting practices - with a few exceptions. Applications were received and prioritized by the program area, and funding recommendations were presented to the Board for approval of the commitment in order to proceed with development of the grant agreement. Once Board approved, the contract manager worked primarily with Legal to prepare the appropriate documentation and to obtain the required approvals in order to continue with execution of the grant agreement. Our sample included three EDAP grant agreements.

Processing Timelines
For each grant agreement and contract in our sample, we calculated the total number of days it took to process – from receipt of the application to final execution. We also evaluated the two primary phases of the entire process from: (1) receipt of the application to Board approval, and (2) Board approval to grant or contract execution.

- Four of the eight contracts we reviewed took approximately five months or more to fully process – with the phase from Board approval to contract execution consisting of the majority of the total number of work days. These four consisted of three Flood Protection contracts and one Agriculture Water Conservation contract.

- Of the three EDAP grant agreements included in our sample, two were processed years prior to the current Board and organizational structure; therefore, we did not consider their processing timelines. However, our review of the most recent agreement took nearly eight months to fully process – with the phase from application receipt to Board approval consisting of the majority of the total number of work days.

Recommendations

Management should:
  a) Establish and document formal timelines and performance goals for processing applications.

  b) Develop and implement a process to consistently measure the formal metrics in order to gauge progress and achievement, and based on the measurements, identify procedural adjustments aimed needed to improve processing efficiency.

Management Response

  a) *O&A Management agrees. Contract Administration will collaborate with WSI and WSC to define, document, and meet programmatic timelines and performance goals. Policies and procedures will be updated as appropriate. Contract Administration is aware that WSC has a work process document relating to the timeliness of solicitations, Board approvals, negotiations, and contract executions. This work process document is set to be updated during fiscal year 2020. All updates will be verified for consistency with documented requirements in the TPCMG.*
  Responsible Party: *David Carter, Director, Support Services and Contract Administration (as coordinated with Cameron Turner, Manager, CIWT, AWC, WSC; Temple McKinnon, Director, WUPP, WSI)*
  Implementation Date: *08/31/2020*

  WSI Management agrees. For the most recent EDAP application round, a detailed timeline with deadlines was created in Microsoft Project comparable to timelines used for programs such as SWIFT, Drinking Water State Revolving Fund, and Clean Water State Revolving Fund. Management monitored progress in meeting each incremental deadline to ensure that all applications were reviewed, scored, and recommendations were presented to the Board in accordance with the schedule. Following the cycle, staff reviewed the outcomes for any efficiencies or changes in the timelines. Management considered the process successful in adhering to the desired timelines, and it will serve as a model for application intake and processing goals in the future since recent legislation requires changes to the program that result in similar process for any future funding cycle.
  Responsible Party: *Mark Wyatt, Director, PAR*
  Implementation Date: *09/01/2021*

  b) *O&A Management agrees. Contract Administration will collaborate with WSI and WSC to develop programmatic metrics and measurement tools. Policies and procedures will be updated*

as appropriate. All updates will be verified for consistency with documented requirements in the TPCMG.
Responsible Party: *David Carter, Director, Support Services and Contract Administration (as coordinated with Cameron Turner, Manager, CIWT, AWC, WSC; Temple McKinnon, Director, WUPP, WSI)*
Implementation Date: *08/31/2020*

WSI Management agrees. For future EDAP application processing, PAR and RWPD will follow the process developed for the most recent funding cycle. It will consist on establishing a detailed application review schedule in Microsoft Project and will be monitored by management to ensure that the application review is completed within the prescribed timelines. The process will include feedback at the conclusion of each funding cycle to ensure maximum efficiencies are occurring and whether any adjustments are needed to the timeframes.
Responsible Party: *Mark Wyatt, Director, PAR*
Implementation Date: *09/01/2021*

Closing

We would like to express our appreciation to all of the management and personnel for their cooperation and assistance provided to the internal audit staff during this review. For questions or additional information concerning this report, please contact Nicole Campbell at (512) 463-7978.

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