

COUNTYWIDE CONTRACTS ASSURANCE ENGAGEMENT

Report No. AE-2024-5

JULY 8, 2024

Utah County Auditor Internal Audit Division
Internal Audit Manager: Calvin Bergmann, CIA, MPA
Senior Internal Auditor: Mont Wade, CIA

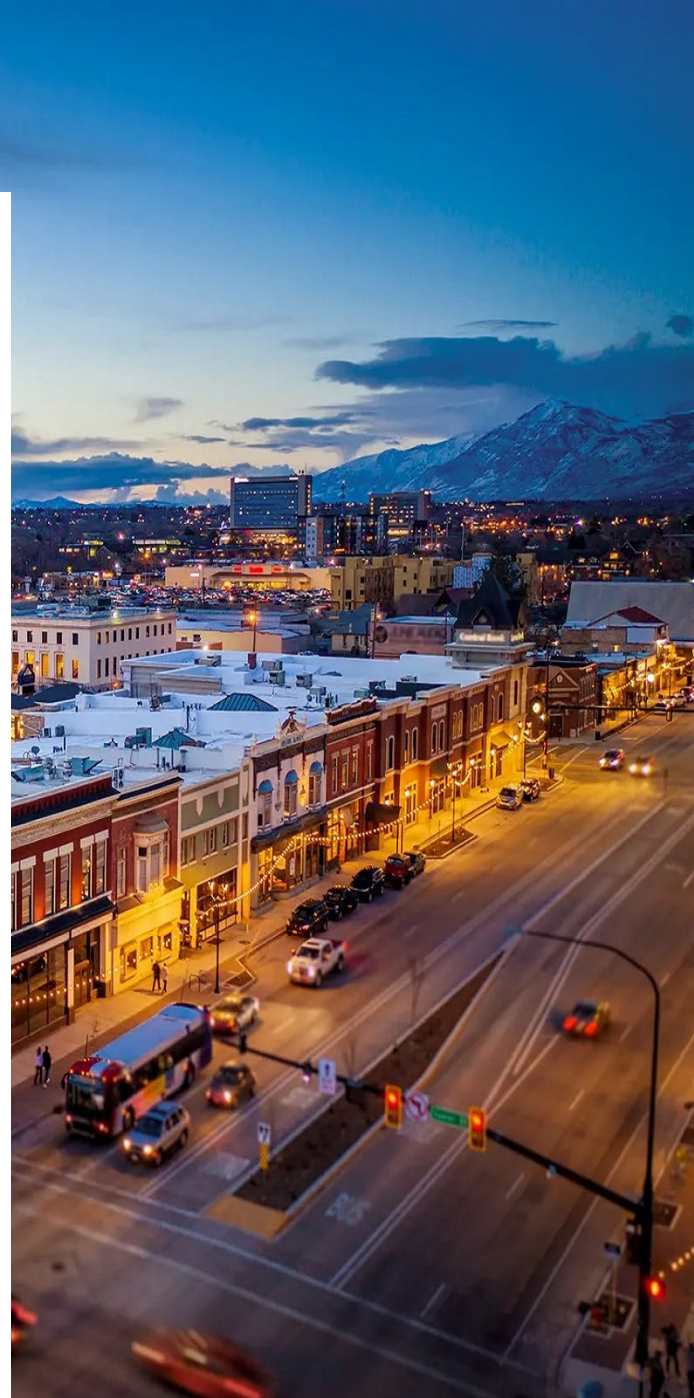


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AUDITOR'S LETTER



Office of the County Auditor Internal Audit Division

July 8, 2024

Rodney Mann, Utah County Auditor
Utah County Auditor's Office
100 East Center Street, Suite 3600
Provo, Utah 84606

Dear Mr. Mann:

The Internal Audit Division ("Division") performed an assurance engagement of countywide contracts. During this limited review, we performed the following procedures:

1. Tested a sample of contracts associated with active vendors with 2018 and earlier agreement dates for compliance with *Utah Code 63G-6a-1204(7)* and *Utah Code 63G-6a-1204(8)*, which state:
 - a. (7) A multiyear contract, including any renewal periods, may not exceed a period of five years, unless: (a) the procurement official determines, in writing, that: (i) a longer period is necessary in order to obtain the procurement item; (ii) a longer period is customary for industry standards; or (iii) a longer period is in the best interest of the procurement unit; and (b) the written determination described in Subsection (7)(a) is included in the file relating to the procurement.
 - b. (8) This section does not apply to a contract for the design or construction of a facility, a road, a public transit project, or a contract for the financing of equipment.
2. Tested the population of contracts associated with active vendors with 2024 agreement dates for compliance with *Utah Code 63G-6a-1204(7)* and *Utah Code 63G-6a-1204(8)*.

The Division discovered one other matter during the engagement. For this other matter, we provide a recommendation to improve Utah County's contract control environment.

Note that our report, by nature, disproportionately focuses on weaknesses. This does not mean there were not strengths within the areas reviewed and other areas not reviewed.

The Division appreciates the courtesy and assistance extended to us by Purchasing Division personnel during the engagement process. We look forward to a continuing professional relationship.

Sincerely,

Utah County Internal Audit Division

CC: Robert Baxter, Purchasing Manager, Utah County Auditor's Office
Paul Jones, Civil Division Chief, Utah County Attorney's Office

FINDING(S) & OTHER MATTER(S)

Other Matter 1.1: Pre-2019 Contracts Can Potentially Violate Current Utah County Procurement Policy and *Utah Code 63G-6a-1204*

Condition

Eighteen active vendor contracts with 2018 and earlier agreement dates did not include expiration dates less than five years from the contract's agreement date; did not include a procurement official written exception determination; and were not for the design or construction of a facility, a road, a public transit project, or financing of equipment.

We note that the 2024 *Utah County Procurement Policy* does not regulate contract expiration dates and states: "If county Procurement code/policy is silent on a topic, State code applies," while previous year County policy (i.e., *Utah County Procurement Rules and Regulations*) does not regulate contract expiration dates and does not explicitly defer to *Utah Code* on unregulated subjects.

Recommendation

Because contracts with annual automatic renewal provisions or without expiration dates can potentially be renewed during 2024 and later years, subsequently violating current Utah County policy, we recommend Purchasing Division management implement a control to ensure previous year indefinite or automatically renewing contracts appearing on the Commission agenda for current year action, as well as current and future year signed contracts, have expiration dates equal to or less than five years from the agreement date or include documentation of a written exception determination, as applicable.

We further recommend that Purchasing Division staff, Civil Division staff, and County department staff contract drafters collaborate to establish and use standardized contract language that does not include indefinite contract periods nor annual automatic renewal provisions.

MANAGEMENT RESPONSE(S)

Other Matter 1.1: Pre-2019 Contracts Can Potentially Violate Current Utah County Procurement Policy and *Utah Code 63G-6a-1204*

Management Response

Recommendation	Agree/Disagree	Corrective Action Plan	Name and Title of Employee Responsible for Implementation	Target Date*
Because contracts with annual automatic renewal provisions or without expiration dates can potentially be renewed during 2024 and later years, subsequently violating current Utah County policy, we recommend Purchasing Division management implement a control to ensure previous year indefinite or automatically renewing contracts appearing on the Commission agenda for current year action, as well as current and future year signed contracts, have expiration dates equal to or less than five years from the agreement date or include documentation of a written exception determination, as applicable.	Agree	For contracts from previous years, all contracts are reviewed by Purchasing when they are submitted to the Commission agenda. Purchasing will review all submissions to ensure that there are no indefinite or auto-renewing contracts over five years included, unless specifically approved in accordance with Utah State Code. Purchasing will also watch for these contracts as we do our monthly review of expiring contracts, and take corrective action as necessary.	Robert Baxter, Purchasing Manager	07/12/2024
We further recommend that Purchasing Division staff, Civil Division staff, and County department staff contract drafters collaborate to establish and use standardized contract language that does not include indefinite contract periods nor annual automatic renewal provisions.	Agree	The Purchasing Manager will meet with Paul Jones from the Attorney's Office to ensure that future contracts do not include indefinite or auto-renewing terms over five years, unless specifically approved in accordance with Utah State Code.	Robert Baxter, Purchasing Manager	09/30/2024

*Entered in MM/DD/YYYY format. Generally, the date should be within 90 days (but no longer than 180 days) of report issuance. If the recommendation has already been implemented, enter the date it was implemented.