

BOARD of REGENTS



AUDIT AND COMPLIANCE COMMITTEE SPECIAL MEETING

*Thursday, April 11, 2019 9:00 am
Scholes Hall, Roberts Room*

The University of New Mexico
Board of Regents' Audit and Compliance Committee
Special Meeting
April 11, 2019 – 9:00 AM
Roberts Room
Revised Agenda

ACTION ITEMS

1. Confirmation of a Quorum and Adoption of Agenda
2. Approval of Meeting Minutes from December 6, 2019
3. Audit and Compliance Committee Meeting remaining date for Fiscal Year 2019. The Committee meets in the Roberts Room.

May 23, 2019 (Entrance Conference for FY19 Financial Statements Audit)

4. Approval of Third Year of Three-Year External Audit Contract (Elizabeth Metzger, University Controller)

INFORMATION ITEMS

5. Introduction of New Committee Members and UNM and HSC/Health Systems Internal Audit and Compliance Staff
6. Advisors' Comments

EXECUTIVE SESSION

7. Vote to close the meeting and to proceed in Executive Session as follows:
 - a. Discussion of limited personnel matters (Interim Director of Internal Audit) pursuant to exception at Section 10-15-1.H(2), NMSA 1978;
 - b. Schedule of audits in process and five-year audit work plan, pursuant to RPM 1.2;
 - c. Vote to re-open the meeting.
8. Certification that only those matters described in Agenda item # 7 were discussed in Executive Session and necessary ratification of action, if any, taken in Executive Session
9. Adjournment

THE UNIVERSITY OF NEW MEXICO
Board of Regents' Audit and Compliance Committee Special Meeting
December 6, 2018 – Meeting Minutes

Members Present: Thomas Clifford, Chair, Garrett Adcock, Vice Chair, Lt. Gen. Bradley Hosmer (quorum).

Other Attendees: Garnett Stokes, Liz Metzger, Jeff Gassaway, Ava Lovell, Terry Babbitt, Francie Cordova, Rob Burford, Dorothy Anderson, Alfred Mathewson, Duane Arruti, Elaine Rising, Ari Vazquez, Brian Pietrewicz, Loretta Martinez, Bonnie Leigh Reifsteck, Paul Roth, Purvi Mody, Manu Patel, Chien-chih Yeh, Lisa Wauneka, William Cottrell, Jane Tinker, Victor Griego, Avedona Lucero, Gonzalo Olivas, Mallory Reviere, Amy O'Donnell.

Chairman Clifford called the meeting to order at 9:01 AM in the Roberts Room, Scholes Hall, UNM.

ACTION ITEMS:

- The Committee approved the meeting agenda.
- The Committee approved the prior meeting minutes from October 15, 2018. Regent Hosmer asked if there would be information on follow up items in Executive Session. Internal Audit Director Manu Patel confirmed there would be.
- The Committee approved the next meeting dates of February 21, 2019 and May 23, 2019 (Entrance Conference for FY19 Financial Statements Audit). Chairman Clifford asked President Stokes if she has any concerns with the February date. She replied that date looks great. Chairman Clifford noted the May 23rd date seems late for the external audit entrance conference. Director Patel replied it is the typical time it is done, because UNM has to wait for the State Auditor and HED to approve the contract. Although this is year three (3) of the existing three-year contract, it is still subject to approval by both entities on an annual basis.

INFORMATION ITEMS:

- Advisors' Comments: None
- Director Patel presented the Internal Audit Director's report. He estimates the department will close out this fiscal year with \$40,000 in reserves. Director Patel updated the Committee regarding ten (10) external audits currently in progress.

The largest audit is National Science Foundation covering approximately \$73,000 in questioned costs. Of that amount, and following negotiations, UNM will have to pay \$44,500. The Health and Human Services Department is auditing a couple of grants. UNM has not received any final report on that. Sandia is auditing some purchase orders; the dollar amount is unknown at this time. The University of North Carolina is auditing a period from July 2013 through June 2018. UNM has not received any report. CMS is reviewing twenty (20) claims with reimbursement of just over two million dollars, and repayment of \$56,800. Twenty-eight claims with reimbursement of \$432,700 are still pending.

Chairman Clifford asked if they always review such a small volume of transactions. Purvi Mody, UNM Health System Chief Compliance and Internal Audit Officer, replied that it was risk-based selection. Chairman Clifford stated it is a good report, but it would be helpful to know who the responsible parties for the items are. Mr. Patel replied that there are a lot of

contracts involved. It is difficult to identify one responsible party. What happens is that all of these audits flow through restricted grant accounting on both sides of the campus. They usually take the responsibility to coordinate the audit and provide information. Considering all the audits UNM is going through, the questioned costs are very minimal. The grants and contracts departments are doing an outstanding job.

Liz Metzger, University Controller provided the Committee with information regarding the CYFD audit. One of the agencies did not indicate a federal tracking number on the document. Therefore, it did not get classified under the CYFD category. CYFD said UNM should have contacted them to inquire about a field that was left blank. Ms. Metzger stated it is actually the funding agency's responsibility to let the University know. It is not related to funding. Chairman Clifford asked for follow-up on that by the next meeting because that is a very important relationship. Ava Lovell, HSC Senior Executive Officer for Finance and Administration, stated that since it is HSC she will take responsibility to follow up on that technical classification issue.

By unanimous consent, the meeting went into Executive Session at 9:12 AM per the agenda.

- a. Discussion of draft Internal Audit Reports, and discussion of information subject to attorney-client privilege pursuant to RPM 1.2;
- b. Discussion of limited personnel matters (Director of Internal Audit Department) pursuant to exception at Section 10-15-1.H(2) NMSA (1978);
- c. Schedule of Audits in Process and FY19 Audit Work plan, pursuant to RPM 1.2;
- d. Vote to re-open the meeting.

The meeting returned to open session at 10:59 AM, with certification that only those matters described above were discussed in Executive Session.

The meeting adjourned at 10:59 AM.

Approved:

Audit and Compliance Committee Chairman

There is no
handout
required for
this item

Contract No

STATE OF NEW MEXICO AUDIT CONTRACT

(Higher Education)

University of New Mexico

hereinafter referred to as the "Agency," and

Moss Adams LLP

hereinafter referred to as the "Contractor," agree

As required by the Audit Rule, NMAC Section 2.2.2.1 et seq., Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to NMAC Section 2.2.2.8, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. **SCOPE OF WORK** (Include in Paragraph 25 any expansion of scope)

- A. The Contractor shall conduct a financial and compliance audit of the Agency for Fiscal Year 2018, using the business-type activity model consisting of the Statement of Net Position, Statement of Revenues, Expenses, and Changes in Net Position, Statement of Cash Flows, and budget comparison schedules presented in the format required by NMAC Section 2.2.2.12.
- B. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, *Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, the Audit Act and the Audit Rule (NMAC Section 2.2.2.1 et seq.).

2. **DELIVERY AND REPRODUCTION**

- A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the following documents to the State Auditor on or before the deadline set forth for the Agency in NMAC Section 2.2.2.9:
 - 1. an organized, bound and paginated hard copy of the Agency's audit report for review;
 - 2. a copy of the signed management representation letter provided to the IPA by the Agency as required by AU-C580, and
 - 3. a copy of the completed State Auditor Report Review Guide available at www.osanm.org.
- B. Reports postmarked by the Agency's due date will be considered received by the due date for purposes of NMAC Section 2.2.2.9. Unfinished or excessively deficient reports will not satisfy this requirement, such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with NMAC Section 2.2.2.13. If the State Auditor does not receive copies of the management representation letter and the completed Report Review Guide with the audit report or prior to submittal of the audit report, the State Auditor will not consider the report submitted to the State Auditor.
- C. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor. The notification shall include an explanation regarding why the audit report will be late, when the IPA expects to submit the report and a concurring signature by the Agency.
- D. Pursuant to NMAC Section 2.2.2.10, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.
- E. After its review of the audit report pursuant to NMAC Section 2.2.2.13, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days after the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor an electronic version of the audit report, in PDF format, and the electronic copy of the Excel version of the Summary of Findings Form, Vendor Schedule, Fund Balances, and any GASB 77 data (if applicable). After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver 4 copies of the audit report to the Agency. The Agency or Contractor shall ensure that every member of the Agency's governing authority shall receive a copy of the report.

- F. The Agency, upon delivery of its audit report, shall submit to the Federal Audit Clearinghouse (FAC) the completed data collection form and the reporting package described in Section 200 512 of Uniform Guidance for Federal Awards. The submission is required to be made within 30 calendar days of receipt of the auditor's report, or nine months after the end of the audit period.

3. COMPENSATION

- A. The total amount payable by the Agency to the Contractor under this Contract shall not exceed \$1,023,480.00 including applicable gross receipts tax.
- B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.
- C. Total Compensation will consist of the following:

| SERVICES | AMOUNTS |
|---|---------------------|
| (1) Financial statement audit | <u>\$378,250.00</u> |
| (2) Federal single audit | <u>\$109,470.00</u> |
| (3) Financial statement preparation | <u>\$0.00</u> |
| (4) Other nonaudit services, such as depreciation schedule updates | <u>\$12,905.00</u> |
| (5) Other (i.e., foundations or other component units, specifically identified) | <u>\$448,140.00</u> |

Gross Receipts Tax = \$74,715.00

Total Compensation = \$1,023,480.00 including applicable gross receipts tax

- D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.
- E. The State Auditor may authorize progress payments to the Contractor by the Agency, provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. Progress payments up to 70% do not require State Auditor approval, provided that the Agency certifies receipt of services. The Agency must monitor audit progress and make progress payments only up to the percentage that the audit is completed prior to making such payment. Progress payments of 70% or more but less than or equal to 90% require State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the approved progress billings. The State Auditor may allow only the first 50% of progress payments to be made without State Auditor approval if the Contractor's previous audits were submitted after the due date. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in accordance with the provisions of this Contract and applicable rules of the State Auditor.
4. TERM. Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the latest date on which it is signed.

5. TERMINATION, BREACH AND REMEDIES

- A. This Contract may be terminated:
1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.
 2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.
 3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.
 4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.
- B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.
- C. Pursuant to NMAC Section 2.2.2.8, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract.

The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

D. THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.

6. STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. SUBCONTRACTING

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to NMAC Section 2.2.2.8, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor's List of Approved Firms, and that are not otherwise restricted by the Office from entering into such a contract.

9. RECORDS

The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. RELEASE

The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. CONFIDENTIALITY

All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE

Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. The Department of Finance and Administration (DFA) is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report (CAFR) and that the Contractor's audit report may be relied upon during the audit of the statewide CAFR, if applicable. However, DFA should not provide to any third party, other than the CAFR auditor, the Agency's draft audit reports or their opinion letters or findings.

13. CONFLICT OF INTEREST

The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16-1, et seq., NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. INDEPENDENCE

The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the *Government Auditing Standards 2011 Revision*, issued by the Comptroller General of the United States, and NMAC Section 2.2.2.8. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. AMENDMENT

This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978

16. MERGER

This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to NMAC Section 2-2-10, consistent with Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.

17. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.

18. AGENCY BOOKS AND RECORDS

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. PENALTIES FOR VIOLATION OF LAW

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. EQUAL OPPORTUNITY COMPLIANCE

The Contractor shall abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. WORKING PAPERS

A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.

B. The Contractor shall follow the guidance of AU-C 210 A.27 to A.31 and AU-C 510 A.3 to A.11 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. DESIGNATED ON-SITE STAFF

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Lisa Todd. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. INVALID TERM OR CONDITION

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. OTHER PROVISIONS

Entities that are part of a firm's global or national network are not considered subcontractors for the purpose of this Contract. The Agency and the State Auditor acknowledge that in connection with the performance of services under the Contract, Contractor may use the services of Contractor controlled entities and/or Contractor member firms to complete the services required by this Contract. The Agency and the State Auditor also acknowledge that in connection with the performance of services under the Contract, Contractor uses vendors to provide at Contractor's direction administrative and clerical services to Contractor. These vendors may in the performance of such services have limited access to information, including but not limited to confidential information, received by Contractor from or at the request or direction of the Agency. Contractor represents to the Agency that each such vendor has agreed to conditions of confidentiality with respect to the Agency's information to the same or similar extent as Contractor has agreed to pursuant to this Contract. Contractor will have full responsibility to cause these vendors to comply with such conditions of confidentiality and Contractor shall be responsible for any consequences of their failure to comply. Accordingly, the Agency and the State Auditor consent to Contractor disclosure to a vendor and the use by such vendor of data and information, including but not limited to confidential information, received from or at the request or direction of the Agency and the State Auditor for the purposes set forth herein.

SIGNATURE PAGE

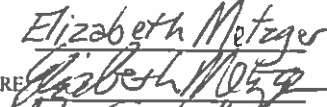
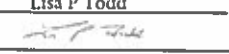
This Contract is made effective as of the date of the latest signature

AGENCY

University of New Mexico

CONTRACTOR

Moss Adams LLP

| | | | |
|--------------|---|---------------|--|
| PRINTED NAME | <u>Elizabeth Metzger</u> | PRINTED NAME: | <u>Lisa P Todd</u> |
| SIGNATURE |  | SIGNATURE |  |
| TITLE | <u>Univ. Controller</u> | TITLE | <u>Partner</u> |
| DATE | <u>4-12-18</u> | DATE | <u>April 11, 2018</u> |



Bruce Cherrin
CPO
4/12/18

State Auditor Contract No. 18-969

MSC 01 1300
Albuquerque, NM 87131-0001
Phone: (505) 277-5111
FAX: (505) 277-7662

Date: April 11, 2019

TO: Doug Brown, Chairman, Audit and Compliance Committee
Victor Griego, Interim Internal Audit Director

FROM: Elizabeth Metzger, CPA – University Controller

RE: FY19 Renewal of Annual Financial Statements Audit Contract

The following information is provided for the Committee's approval related to the annual financial statement audit for the fiscal year ended June 30, 2019, pending final approval by the State Auditor.

During FY17, UNM issued a Request for Proposal (RFP) for the FY17, FY18, and FY19 external financial statements audit. Proposals and evaluation criteria were distributed to the 6-member evaluation committee on February 27, 2017. The Committee consisted of the University Controller, Executive Officer of the Finance and Administration for the HSC, Controller for the UNM Foundation, Finance Director for the University Hospital, Associate Controller for Procurement Service, and the University Acting Provost. In accordance with appropriate selection criteria established for the procurements, the written proposals were evaluated for responsiveness to mandatory requirements.

Based on the evaluation from the committee members and in-person presentations from the responders, the selection committee recommended awarding the contract to Moss Adams with a subcontract to KPMG for audit of the clinical areas. This was approved by the audit committee on April 13, 2017 and the Full Board of Regents on April 18, 2017.

The proposed cost for year 3 of the audit, FY19, is \$1,008,030 which includes all Component Units. For comparison purposes, the cost for the FY18 audit was \$998,765 after an amendment was executed to audit related party transactions.

There is no
handout
required for
this item

There is no
handout
required for
this item

EXECUTIVE SESSION