



## Memorandums of Understanding

### Internal Audit

November 2016

# Bernalillo County Internal Audit Memorandums of Understanding

## Executive Summary

### SUMMARY OF PROCEDURES

REDW performed internal audit procedures over Memorandums of Understanding (MOUs) and Intergovernmental Agreements (IGAs) entered into between County departments and various governmental and non-governmental organizations. Our internal audit test work focused on assessing the effectiveness and design of internal controls in place over the initiation, tracking, and compliance monitoring of these agreements. Throughout the course of our test work, we also evaluated the cost versus benefit to the County for the agreements in place.

We performed the following procedures:

- Obtained the relevant sections of the Purchasing and Contracting Guidelines and gained an understanding from a sample of departments on the process for initiation, tracking and monitoring of MOUs/IGAs.
- Obtained a listing of active agreements and assessed the completeness of the listing by selecting a sample of nine departments and determining the current status of the agreements. We also inquired with the selected departments to determine if there were additional agreements which were not captured in the active agreement listing.
- Based on the feedback obtained from the departments, selected a sample of active agreements and tested for department tracking, monitoring of compliance, and cost/benefit of the agreement.
- For the sample of active agreements, we verified that information provided on the Contract Control Form was correctly entered into the Oracle system.

### SUMMARY OF OBSERVATIONS AND RECOMMENDATIONS

As a result of our testing, the following significant high and moderate risk observations were identified:

- 1) **MOU/IGA listing was incomplete** – The cumulative listing maintained by the County of all MOUs/ IGAs was not updated regularly which resulted in an incomplete listing. The County should review and update the Oracle database to ensure the listing of agreements accurately captures the status of all of the County’s MOU/IGA agreements.

- 2) ***Compliance was not consistently monitored*** – Compliance with the agreements was not consistently monitored or documented by departments. This resulted in the County being out of compliance with some agreements that were entered into. The County should implement a standard format for department level tracking to ensure continuous monitoring and compliance across the term of the agreement.
- 3) ***Lack of guidance for MOU/IGA initiation and monitoring*** – There did not appear to be a consistent process for determining when a MOU versus an IGA should be used. The County should update Section 11 – Contracts to include guidelines for initiating, tracking and executing MOU/IGA agreements.

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Further detail of our purpose, objectives, scope, and procedures are included in the internal audit report.

We received excellent cooperation and assistance from the Departments during the course of our interviews and testing. We sincerely appreciate the courtesy extended to our personnel.

REDW LLC

Albuquerque, New Mexico  
January 4, 2017

# Bernalillo County Internal Audit Memorandums of Understanding

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# **Bernalillo County Internal Audit Memorandums of Understanding**

## **Report**

### **INTRODUCTION**

We performed the internal audit services described below solely to assist Bernalillo County in evaluating selected processes around Memorandums of Understanding (MOUs) and Intergovernmental Agreements (IGAs), including the initiation, centralized tracking, compliance, cost versus benefit, termination, and expiration of the agreements. Our services were conducted in accordance with the Consulting Standards issued by the American Institute of Certified Public Accountants, Generally Accepted Government Auditing Standards, and the terms of our contract agreement for internal audit services. Since our procedures were applied to samples of transactions and processes, it is possible that significant issues related to the areas tested may not have been identified.

An entrance conference was held on November 4, 2016, and fieldwork began the week of November 7, 2016. An exit conference was held on January 3, 2017.

### **PURPOSE AND OBJECTIVES**

MOU/IGAs are initiated at the department level when a need arises. The County's Procurement department is responsible for tracking all of these agreements and the individual departments are responsible for the monitoring compliance with each of their designated agreements. Our internal audit focused on assessing the effectiveness and design of internal controls in place over the initiation, tracking, and compliance monitoring of MOUs/ IGAs.

### **SCOPE AND PROCEDURES PERFORMED**

**In order to gain an understanding of the processes and operations, we interviewed the following personnel:**

- Dinah Esquivel, Director of Procurement and Business Services
- Andrew Galvin, Financial Administrator for the Sheriff's Department
- Leora Perez, Administrative Officer to the Fire Chief

- Diane Chavez, Special Projects Coordinator for General Services – County Manager’s Office
- Rosanna Suazo, Special Projects Coordinator – Office of Health and Social Services
- George Schroeder, Environmental Health Manager – Office of Health and Social Services
- Jose Munoz, ABC Community School Partnership Executive Director – Office of Health and Social Services
- Anne Ryan, Assistant Director of Administration – Juvenile Detention Center
- Corina Cortez, Budget Officer – Parks and Recreation
- Patricia Benavidez, Executive Assistant to Deputy County Manager of Public Works
- Juan Caraveo, Fiscal Housing Administrator

**In order to gain an understanding of the processes obtained the relevant portions of:**

- Purchasing and Contracting Guidelines Section 11 - Contracts, revised November 2012
- Listing from Oracle of all active MOU/IGAs

**We performed the following testwork:**

***Policies and Procedures:*** Obtained relevant sections of the Purchasing and Contracting Guidelines, relating to Procurement’s process over handling, entering, and terminating contracts. Additionally, we read the documentation to determine if there were requirements for using each type of agreement and if there was department level guidance for initiating and monitoring the agreements.

***Database Tracking:*** Obtained a listing from the Oracle database of all MOUs/IGAs as of October 19, 2016. REDW performed the following steps over the database:

- Filtered the report to only contain active agreements.
- Selected a sample of nine departments and confirmed the agreements on the listing were accurately listed for their department and were active.
- Tested a sample of 37 agreements (33% of the active agreements for the nine departments selected) to ensure the information on the agreement was correctly entered into the Oracle System.

***Department Monitoring and Compliance:*** From the nine departments selected for testing, REDW chose a sample of 37 active agreements. For each selection, we tested to determine if:

- There was an individual at the department level who had responsibility for monitoring the compliance with the agreement.
- The individual was actively monitoring compliance and documenting compliance measures, if applicable.
- The agreement contained appropriate solutions in response to noncompliance with the Scope of Work in the agreement.
- The cost of the agreement (either dollar or service) appeared to be reasonable based on the benefit received by the County.

## **OBSERVATIONS, RECOMMENDATIONS AND MANAGEMENT RESPONSES**

As a result of our testing, REDW identified the following observations:

### ***1) MOU/IGA listing was incomplete***

According to Section 11 – Contracts of the Purchasing and Contracting Guidelines, all contracts, including MOU/IGAs, must be routed through Procurement. Procurement is then responsible for maintaining these agreements within the Oracle database. We tested nine departments which had a total of 247 agreements on the active listing. Our testing identified 46% (113 agreements) were no longer active and should have been terminated in the system. Additionally, 9% (23 agreements) were unable to be identified by the department as active or terminated. We further identified:

- One department identified 14 agreements that had not been communicated to Procurement, and therefore were not entered into the system for tracking.
- Four agreements that were not listed under the correct department in the Oracle database.

**Potential Risk: Moderate** – If the agreements are not consistently tracked, the County may enter into an agreement that County management is unaware of. The County may be at risk for violating an unknown agreement, or may not be receiving or providing services that were agreed upon. Based on our testing of the agreements, none identified in the observation above appeared to have significant implications to the County if compliance requirements were not followed.

**Recommendation:** The County should review and update the Oracle database to ensure the listing of agreements accurately captures the status of all of the County’s MOU/IGA agreements. For any agreement identified that should be terminated in the system, the County should consider sending a termination notice to the other party.

Additionally, on an annual basis, Procurement should facilitate departmental reviews for the MOU/IGAs that are listed as active for each department. Each department can provide feedback regarding, but not limited to:

- If the status of an agreement is accurate (e.g. changed from active to terminated).
- If the department has additional agreements that were not communicated to Procurement or included in the listing.
- If there are agreements on the listing that are inaccurately reported under their department.
- Termination notices were provided for any agreements moved to a terminated status.

**Management Response:** Management agrees with the finding. Beginning in FY18, the Procurement and Business Services Department (PBS) will initiate a bi-annual MOU/IGA reporting process which will allow departments to review and provide feedback regarding the status of the agreement.

Additionally, PBS will also immediately take the following actions:

- For those MOUs and IGAs that were tested and identified (46% (113) agreements) by the departments as no longer active, PBS will consult with the legal department to determine

what action(s) are necessary to update the Oracle database, i.e., sending out a termination notice, etc.

- Enter into the Oracle database the 14 agreements that had not been communicated to Procurement.

## ***2) Compliance was not consistently monitored***

Each County department is responsible for monitoring the compliance of each agreement initiated or used by that department. Currently, there are not consistent processes followed by departments for initiating and monitoring these agreements. During our testing we identified:

- Five of 37 agreements appeared to have elements within the agreement that were no longer applicable or out of compliance with the requirements specified in the agreement. For example, required meetings were not held and required reports were not provided.
- One of 37 agreements did not have an individual assigned to monitor compliance, and did not appear to be cost beneficial to the County due to the significant backlog in services.
- Two of 37 agreements were identified as active but should have been terminated in the system.

**Potential Risk: Moderate** – Without appropriate tracking procedures and compliance monitoring, the County may be at risk for noncompliance with the agreements or not receive the services needed. Based on our testing of the agreements, none identified in the observation above appeared to have significant implications to the County if compliance requirements were not followed.

**Recommendation:** The County should implement a standard format for department level tracking to ensure continuous monitoring and compliance across the term of the agreement. This should include:

- Department listing – Each department should keep an up-to-date listing of the active agreements initiated/used by the department.
- Storage of the agreements – Each department should keep active agreements in a centralized file. This could either utilize Application Extender or could be a shared folder for the department.
- Assignment of responsibility – There should be documentation of who in the department is responsible for the execution, continued monitoring, and notification of termination to Procurement for each agreement. This will ensure that if there is turnover, the agreement will be reassigned.
- Documentation of compliance – Documentation of the County's compliance with each agreement including agendas, meeting minutes, and reports should be scanned into Application Extender or stored by a centralized person at the department.

**Management Response:** Management agrees with the finding. County departments are responsible for the contract administration of their respective contracts for their areas. Contract administration includes but is not limited to all of the elements detailed in the recommendation above.



Procurement and Business Services Department is currently developing a Contracts/Agreements Training course. The “Course Goal” is as follows:

*Know the types of contracts and how to use them, how contracts relate to approving invoices, and other relevant information concerning contracts.*

The “Training Topics/Objectives” that have been developed thus far, include the following:

<p><b>Training Topics/Objectives</b></p>	<p>Know:</p> <ul style="list-style-type: none"> <li>A. The different types of contracts and common contract elements</li> <li>B. Where to view contract information</li> <li>C. How to compare a contract with a vendor quote</li> <li>D. Contract Expiration and Pending Reports</li> <li>E. When and how to use the Contract Control Number (CCN) Form and the Office of the County Manager Document Routing Cover Sheet</li> <li>F. Responsibilities and dispute resolution</li> <li>G. How to review contracts when entering Goods Receipts(GRs)/Service Entry Sheets (SESS) and approve vendor invoices after the shopping cart is created and the Purchase Order (PO) is issued</li> </ul>
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Procurement and Business Services will incorporate into the training course the fundamentals of contract administration, including those outlined in the recommendations above. The Contracts/Agreements Training Course will be implemented by the 4<sup>th</sup> quarter of FY17.

**3) Lack of guidance for MOU/IGA initiation and monitoring**

Section 11 – Contracts of the procurement document does not specifically address initiating or monitoring the County’s MOU/IGA agreements. Additionally, based on discussions with various County departments, there did not appear to be a consistent process for determining when a MOU versus an IGA should be used.

**Potential Risk: Moderate** – Without specific guidance, there is a risk that agreements are initiated by County departments which do not follow the standard process. There does not seem to be a significant difference in these types of agreements which could put the County at risk for non-compliance.

**Recommendation:** The County should update Section 11 – Contracts to include guidelines for initiating, tracking and executing MOU/IGA agreements. The updates should include:

- Definition of the criteria on when to use each type of agreement.
- Process for approval.
- Requirements at the department level for tracking and executing the agreements.
- Requirements for periodic centralized review of the MOU/IGA listing.

The updated guidelines should be communicated to the County departments to ensure compliance going forward.

**Management Response:** Management agrees with the finding. As currently provided in the “Overview” of Section 11, the purpose of Section 11, “is to establish procedures and requirements, which Departments must follow in drafting, entering into, and seeking approval of contracts, review and routing and the types of contracts used by the County”. Section 11 also includes examples of the various types of agreements, but does not include MOUs and IGAs.

PBS will immediately begin working with the legal department for input on defining criteria on when to use an MOU versus an IGA, and will amend Section 11 accordingly. In addition, PBS will incorporate a new paragraph regarding “Department Contract Responsibilities”, similar to the recommendations outlined in Observation #2, to further assist on department level tracking, etc.

It is important to note that currently, Section 11 does reference AI (Administrative Instruction) CM05, “Required Signature Approvals” which provides detail for required signatures and approval for “Official County Documents”. Section 11, along with the AI CM05 will be incorporated into the Contracts/Agreements Training Course. The Contracts/Agreements Training Course will be implemented by the 4th quarter of FY17.

## **PROCESS IMPROVEMENT OPPORTUNITY**

### ***1) There were not adequate provisions for noncompliance in the agreements***

Agreements entered into by the County should consider what action would be taken in the event of noncompliance. In some cases, termination of the agreement may be adequate, in other cases the County may benefit from including additional wording to address action to be taken if either party is noncompliant. Based on testing it appears that 16 of 37 agreements tested would benefit from including wording for options in case of noncompliance with the agreement. On the 16 identified, the only option at the time of noncompliance is to provide notice and terminate the agreement.

**Recommendation:** The County should meet with their legal department to determine if the agreements can be amended to add wording regarding options that the County can take if the other party is not complying with the agreement.

**Management Response:** Management acknowledges this process improvement recommendation. Given the various types of services covered under the MOAs and IGAs, the inclusion of additional wording to address action to be taken if either party is noncompliant must be established on a case by case basis, primarily taking into consideration the purpose of maximizing performance and minimizing risk for the parties involved. Regarding the 16 agreements that were tested and could benefit from including wording for options in case of noncompliance, a meeting and/or discussion should be held with the department(s) who have the 16 agreements to establish where changes could/should be made, or if a termination should be considered.

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This report is intended for the information and use of Bernalillo County management, the audit committee, members of the Board of Commissioners of Bernalillo County and others within the organization. However, this report is a matter of public record, and once accepted its distribution is not limited.

We discussed and resolved minor observations with management and received excellent cooperation and assistance from Departments during the course of our interviews and testing. We sincerely appreciate the courtesy extended to our personnel.

REDW LLC

Albuquerque, New Mexico  
January 4, 2017