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TEXAS A&M UNIVERSITY

Review of Technology Commercialization

January 19, 2016

Charlie Hrncir, C.P.A.
Chief Auditor

Project #20150114
Overall Conclusion

Overall, the Texas A&M System Technology Commercialization (TTC) office has established procedures to accomplish its objectives. However, significant improvement is needed to ensure compliance with all elements of System Policy 17.01 *Intellectual Property Management and Commercialization*. The variances of operations from the system policy indicate that a policy review is warranted to ensure it reflects the expectations, needs, and processes of TTC and its customers. Opportunities for improvement were also noted in the areas of accounts receivable processes and timely payment of outside counsel.

The TTC office was created to facilitate technology transfer for the Texas A&M University System. From 2006 to August 2015, the service unit operated under the administrative oversight of the System Offices. As of September 2015, Texas A&M University has assumed this oversight role.

Summary of Significant Results

*Policy on Intellectual Property Management and Commercialization*

Significant improvement is needed to ensure compliance with System Policy 17.01 *Intellectual Property Management and Commercialization*. TTC has developed detailed procedures to accomplish its objectives; however, multiple instances of noncompliance with System Policy 17.01 were noted related to the timeliness of revenue distributions, new venture due diligence procedures, reporting timeliness and accuracy, and committee member composition.

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**Technology Commercialization Areas Reviewed**

- Intellectual Property Disclosures
- License Agreements
- Revenue Distribution
- New Venture Due Diligence
- Reporting
- Committees
- Outside Counsel
- Accounts Receivable
- Cash Handling
Summary of Management's Response

Texas A&M System Technology Commercialization is working with the Office of General Counsel to review and revise System Policy 17.01 with the goal of greatly simplifying the 20 page policy and clarifying the policy. A draft of the suggested revised policy and procedures will be circulated for review and comment by all of the stakeholders in the process and will include input from inventors, administrators, and regional campuses. The revised policy and procedures are planned to be presented to the Board of Regents in November of 2016, one year ahead of the scheduled review. This process will ensure that the stakeholders are able to give input into the policy governing commercialization and will be an opportunity for improvements and clarifications to policies and regulations for TTC.

The input from the audit team has been reviewed and actions have been taken to address all of the points made by the auditors in the course of their review of TTC. There is no doubt that the specific areas for improvement have been and will continue to be greatly improved due to management and staff actions taken by TTC to address the issues noted by the audit team. Detailed actions and responses to each of the specific items noted are shown in the management response sections.
Detailed Results


Significant improvement is needed to ensure compliance with System Policy 17.01 Intellectual Property Management and Commercialization. The policy was last updated in 2012. While the policy is not scheduled for review until 2017, the variances of operations from the policy indicate that a review is warranted to ensure the policy reflects the expectations, needs, and processes of Texas A&M System Technology Commercialization (TTC).

TTC has developed detailed procedures to accomplish its objectives; however, the following instances of non-compliance with System Policy 17.01 were noted during testing:

- Royalty revenue distribution amounts tested were distributed in accordance with the allocation guidelines provided in the system policy and inventor distribution agreements. However, 6 out of 17 (35%) distributions tested were not distributed at the end of the quarter in which they were collected as required by A&M System Policy 17.01, Section 4.8 - Distribution of Royalties, License Fees and Sale Proceeds from Licensing.

- Due diligence procedures were performed with results provided to and approved by the Chancellor for the seven new ventures selected for review. However, several variations from A&M System Policy 17.01, Section 5.3 – Due Diligence Process were noted.
  - Annual resubmission of minimum requirements for new ventures has not occurred since the original requirements were developed in 2006. Additionally, the minimum requirements do not reflect guidelines currently being used by the department to evaluate new ventures.
  - TTC’s communication with A&M System employees regarding required reporting of future conflicts of interest is not documented. Additionally, TTC is responsible for obtaining and receiving financial disclosures for individuals serving on the board of new ventures at the request of the A&M System; however, the Office of General Counsel is currently performing this duty.
  - Results of required reviews of business venture progress are not provided to the Chancellor and the chief financial officer every six
months as required by A&M System policy and as indicated in new venture approval documentation.

- Improvements in the timeliness and accuracy of required reports are needed. A&M System Policy 17.01, Section 7.4 - Reporting Requirements identifies four required reports: an annual listing of disclosures received; an annual report on technology commercialization investments; an annual report of select individuals affiliated with entities that have agreements with the system; and a semi-annual report on license agreements and commercialization activity. For the audit period, the annual report on technology commercialization investments and the annual disclosures received report were not submitted within 60 days of year-end as required. One of the two semi-annual reports on license agreements and commercialization activity for the audit period was submitted timely; however, the department was not able to document the submission of the second semi-annual report. The semi-annual report which was submitted did not include all license agreements in place during the reporting period. The annual listing of disclosures received did not include 41 of 218 (19%) disclosures received during the year.

- Oversight Committee membership, activity and policy needs improvement. A&M System Policy 17.01, Section 7.3 Intellectual Property Committees establishes an Oversight Committee to be chaired by the Chancellor and comprised of the Vice Chancellor for Federal and State Relations, Associate Vice Chancellor for Commercialization, and chief executive officers from members principally involved in research and commercialization. Due to delegation and changes in TTC administrative reporting, this composition is no longer accurate. An Oversight Committee meeting was held in September 2015 which was 21 months since the previous meeting. The policy does not indicate a frequency for meeting; however, in order to provide oversight and communicate expectations, a regular frequency is needed. The policy also establishes a constituent committee to be comprised of no fewer than three faculty representatives, three deans, and three administrators. The current composition of the constituent committee includes only one dean and one vice dean instead of the required three deans.

System policies guide the operations of the system by incorporating the board’s philosophies, expectations and priorities. System policies create administrative structures, set priorities, delegate authority, assign responsibility and ensure accountability, and define reporting requirements. Non-compliance with system policies increases the risk that the board’s philosophies, expectations, and priorities are not met.
**Recommendation**

Review and update System Policy 17.01 *Intellectual Property Management and Commercialization* to ensure it reflects the expectations, needs, and processes of TTC and its customers. Monitor for compliance with the updated policy including timely distribution of royalty revenue, completion of due diligence requirements, completion of required reporting in a timely and accurate manner, and ensure the membership of the intellectual property committees is complete.

**Management’s Response**

*A policy review is currently underway that will involve all stakeholders in commercialization and include feedback from inventors, administrators, and regional campuses to ensure that the policies and procedures outlined in policy for commercialization reflects the current goals for TTC. The current System Policy 17.01 is more than 20 pages long. The goal for the rewrite and review is to greatly simplify and clarify policy. The current timeline for the policy review is to have comments and changes incorporated so that a revised policy and regulations can be presented to the Board of Regents in the November 2016 meeting.*

*TTC will develop and implement processes to monitor compliance with the updated policy including timely distribution of royalty revenue, completion of due diligence requirements, completion of required reporting in a timely and accurate manner, and ensure the membership of the intellectual property committees are complete. All monitoring processes based on the updated policy and regulations will be in place by February 27, 2017.*

2. **Accounts Receivable**

*Accounts receivable processes need improvement.* TTC’s accounts receivable balance includes royalties and license agreement fees from companies in various stages of development. TTC has identified several uncollectible accounts included in the accounts receivable balance which are due from companies who have ceased operations. The department is in the process of gathering required documentation to support the write-off of these uncollectible accounts, and any other amounts which are uncollectible. As of May 31, 2015, the total accounts receivable balance was $6.2 million, of which $3.2 million (52%) was related to invoices which are at least three years old. A review of current collection activity (invoices outstanding a year or less) indicates TTC collection efforts do not consistently follow system regulation requirements or department procedures regarding the timing of past due notices for unpaid receivables.
System Regulation 21.01.04 *Extension of Credit* indicates that members are to utilize the Office of General Counsel to determine if delinquent accounts can be written off and outlines required account information to submit for review. It also states that no more than two demand letters should be transmitted to debtors. The first demand letter should be sent no more than 30 days after the obligation has become delinquent, and the second demand letter should be sent 30 to 60 days after the first demand letter. Documentation of all attempts to collect the debt must be recorded and maintained on file. Without adherence to procedures for accounts receivable, TTC may be forgoing opportunities for payment on collectible accounts and non-compliance with system regulations.

**Recommendation**

Review outstanding accounts receivable balances and write-off any uncollectible balances as approved by the Office of General Counsel. Improve oversight and monitoring of accounting processes related to the collection of accounts receivable to ensure compliance with A&M System regulations and department procedures. Standardize processes related to accounts receivable collection efforts, such as sending automatic past due notices, in order to more effectively and efficiently collect outstanding balances.

**Management’s Response**

*Since the beginning of the review period, TTC has been working diligently with the Office of General Counsel (OGC) to not only develop an improved procedure for collecting receivables and writing off uncollectible receivables, but also to implement the new procedures. For example, the amount of outstanding accounts receivable has been reduced by more than 65% in the last 6 months with further improvements in process. TTC now has clear procedures in place to ensure timely collection efforts of receivables and/or the cancellation of the license agreement. Monitoring and oversight of collection efforts now includes regular meetings between management and accounting staff on accounts receivable to ensure 1st and 2nd notices of receivables are automatically sent to companies and that OGC receives and reviews licensee breach notices within 30 days of the company being in breach so that the breach notice can be transmitted to the company in a timely fashion. To further improve the process, TTC will work with the members in writing off or adjusting accounts receivable where appropriate and where desired by the members.*

*With the administrative move to Texas A&M University, TTC will be working more closely with Texas A&M Fiscal to aid in the collection efforts of aged accounts receivable and placing companies on state hold in a more timely fashion. TTC will be providing TAMU Fiscal with a copy of monthly accounts receivable related to patent*
expense reimbursements owed to the system by licensees for assistance in receivable collections by May 31, 2016.

3. Outside Counsel

Payments to outside counsel are not timely. One hundred two out of 165 (62%) outside counsel invoices tested were not paid within 30 days as required by system regulations and state law. Of the 102 invoices not paid within 30 days, 49 (48%) were 1 to 15 days late, 10 (10%) were 15 to 30 days late, 27 (26%) were 31 to 60 days late, and 16 (16%) were more than 60 days late. TTC logs the status of invoices in a multi-step review process; however, the invoice log is not actively monitored for approaching due dates.

System Regulation 21.01.01 Disbursement of Funds states the payment for goods and services delivered and accepted will be processed in accordance with the Prompt Payment Act of the State of Texas, which requires payment to a vendor within 30 calendar days. Payments made outside of the 30-day threshold are not in compliance with system policy and may require the payment of interest on the amount due.

Recommendation

Improve the payment process related to outside counsel invoices to ensure payments are processed in a timely manner as required by System Regulation 21.01.03 Disbursement of Funds.

Management’s Response

TTC has improved training of staff to enhance compliance with timely payment requirements for attorney invoices. Additionally, management is now receiving a monthly report which shows every attorney invoice and the processing time for the invoices and is reviewing the report with responsible staff to address any issues quickly.
Basis of Review

Objective and Scope

The overall objective of this audit was to review and assess Texas A&M System Technology Commercialization’s controls and processes related to oversight and operations to determine if resources are used in compliance with laws, policies, and regulations. Areas reviewed include intellectual property disclosures, license agreements, royalty and license fee revenue distributions, due diligence of new ventures, reporting, intellectual property committees, outside counsel payments, accounts receivables, and cash handling. The audit period focused primarily on activities from June 2014 to May 2015. Fieldwork was conducted from June to September 2015.

Methodology

Our review methodology included interviews, observation of processes, review of documentation, and testing of data using sampling as follows:

- To determine if disclosure reviews of rights and obligations were completed and communicated timely, auditors selected a non-statistical sample of 35 disclosures through random selection designed to be representative of the population.

- To determine if license agreements met the requirements of System Policy 17.01 and were properly approved, auditors selected a non-statistical sample of eight license agreements through random selection designed to be representative of the population.

- To determine if intellectual property creator participation as an employee, director, or member of the governing body was approved, auditors selected a non-statistical sample of 13 participating intellectual property creators through random selection designed to be representative of the population.

- To determine the accuracy of royalty and license revenue distributions, auditors selected a non-statistical sample of 13 revenue distributions through random selection designed to be representative of the population. Auditors used professional judgment to select four additional distributions for testing.

- To determine compliance with due diligence requirements for new ventures with cash investment, auditors selected seven new ventures, which
represents the complete population of new ventures with cash investment initiated since the previous audit.

- To determine if outside counsel invoices were paid timely and within approved expense allowances, auditors selected a non-statistical sample of six outside counsel firms through judgmental selection designed to be representative of the population.

- To determine the accuracy and timeliness of invoices and past due notices for accounts receivable, the auditors selected a non-statistical sample of 12 invoices through random selection designed to be representative of the population. Auditors used professional judgment to select two additional invoices for testing.

- To determine the adequacy of cash handling procedures, the auditors judgmentally selected one month’s cash receipt activity.

Criteria

Our audit was based upon standards as set forth in Texas A&M University System Policies and Regulations and other sound administrative practices. This audit was conducted in conformance with the Institute of Internal Auditors’ “International Standards for the Professional Practice of Internal Auditing.”

Additionally, we conducted this performance audit in accordance with generally accepted government auditing standards. Those 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 findings and conclusions based on our audit objectives.
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TEXAS A&M UNIVERSITY – SAN ANTONIO

Review of Financial Management Services

January 19, 2016

Charlie Hrncir, C.P.A.
Chief Auditor

Project #20152504
Overall Conclusion

Overall, controls and processes in the financial management areas reviewed at Texas A&M University - San Antonio are operating as intended and in compliance with applicable laws and policies with the exception of contract administration which requires significant improvement. The university's current contract administration process does not consistently ensure that contracts are properly approved in accordance with A&M System regulations and monitored for compliance with contract terms. In addition, a university rule for contract administration has not been approved and implemented as required. Opportunities for improvement were also noted related to the process for updating user access to the university's Financial Accounting and Management Information System (FAMIS).

Summary of Significant Results

Contract Administration

The university has not dedicated sufficient resources to facilitate administration of contracts with outside vendors including monitoring contracts for compliance with general contract terms and vendor performance. Several instances were noted in which contract terms tested for some of the university's largest contracts were not being sufficiently monitored or complied with. In addition, some contracts were not approved timely. Insufficient monitoring of contract terms can increase the risk of vendor compliance and performance issues which could negatively impact university finances and operations.

Summary of Management’s Response

*We appreciate the thorough review provided by Internal Audit. Texas A&M University – San Antonio will move to address the issues raised and make improvements in the contract administration and FAMIS access areas.*
Detailed Results

1. Contract Administration

The university’s contract administration process does not consistently ensure contracts are properly approved and monitored for compliance with contract terms. Several instances were noted in which contract terms for some of the university's largest contracts were not being sufficiently monitored for compliance or were not approved timely.

**Accent Vending**

- Detailed commission sales reports were not obtained from the vendor prior to June 2015 to ensure the commission revenue received was accurate and complete.

**Barnes & Noble**

- The contract and contract extension were not approved prior to their corresponding effective dates.
- Comprehensive general liability insurance obtained by the vendor included only $1 million of coverage rather than $3 million as required.
- No monitoring is performed to ensure the vendor is providing a 10% discount to full-time faculty and staff at the university.
- No documentation was available to verify that the vendor invested up to $50,000 to design, equip and provide fixtures for the bookstore facility.

**Southeast Service Corporation’s Service Solutions (SSC)**

- No documentation was available to indicate that insurance was obtained by the vendor and provided to the university within 10 working days of the execution of the agreement.
- Documentation of funding provided by the vendor for start-up expenditures was not readily available, but had to be requested from the vendor at the time of audit fieldwork.
- Although a performance measurement program has been developed as required the program has not yet been implemented.
- The university does not consistently perform monthly inspections to ensure vendor compliance with contract requirements.
- Weekly work order activity reports are submitted by the vendor, but are not signed by the vendor’s Director of Plant Operations and Maintenance as required.

*Ellucian Company L.P. (Ellucian)*

- Documentation was not provided to verify that monthly written vulnerability scans are performed by the vendor as required.
- A formal operations support document was not provided by the vendor that covers all the requirements listed in the contract.

Insufficient monitoring of contract terms can increase the risk of vendor compliance and performance issues which could negatively impact university finances and operations.

Instances were also noted in which information in the university’s contract database was incorrect or incomplete for several of the above contracts. When populated with accurate and complete information, the contract database will help assess contractual risk to the university, ensure contracts are appropriately reviewed, and ensure management exercises its fiduciary responsibilities when executing contracts on behalf of the university. In addition, the database will enhance the ability to manage upcoming contract expiration dates.

The university has not dedicated sufficient resources to facilitate administration of contracts with outside vendors. Turnover in key administrative positions left remaining staff to perform contract administration responsibilities in addition to their current duties. Although a contract administration rule has been drafted by the university, the rule has not been approved and implemented as required by System Policy 25.07 *Contract Administration*. The university drafted a rule in June 2014, but was advised to wait on finalizing the rule due to an impending update to System Regulation 25.07.01 *Contract Administration Delegations and Reporting*. This regulation was updated on April 15, 2015. The university’s rule is currently in review with the A&M System’s Office of General Counsel.

**Recommendation**

Address the areas of non-compliance with contract terms identified above.

Provide sufficient resources to effectively monitor contracts for compliance and vendor performance given the magnitude and significance of these contracts. Ensure contracts are properly approved prior to the effective date of the contract.
Update the university's contract database to include all relevant information needed to assess the risk of each contract and implement corresponding monitoring processes and controls to mitigate risk. If no definite amount is available for a contract, an approximate amount should be included for risk management purposes.

Finalize and implement the contract administration rule that addresses the requirements of System Policy 25.07 *Contract Administration*.

**Management’s Response**

*Management has already begun taking measures to address the issues identified in this area. As part of a larger reorganization plan, the employee who was responsible for administering the bookstore, vending, and food service contracts has been terminated and a Contract Services Manager position has been posted to administer/oversee all campus-wide contracts. Once hired and trained, this person will be responsible for addressing all non-compliance issues as well as provide appropriate monitoring for performance in the future. We expect to have this person in place by March 1, 2016 and to have all issues identified during the audit addressed by 6/30/2016.*

*Procurement Services will be responsible for updating and maintaining the contract database and will have the database information updated by 6/30/2016.*

*The university contract administration rule has been submitted to the Office of General Counsel for approval.*

2. **FAMIS Access**

*The process for updating user access to the university’s Financial Accounting and Management Information System (FAMIS) requires improvement to ensure only authorized individuals have access.* There is not an adequate process in place to detect and correct employee access that was not properly adjusted or removed at the time the employee changed job duties or terminated employment with the university. The university relies upon user inactivity to identify employees whose access was not properly removed or adjusted at the time job duties changed or the employee terminated employment with the university. However, this control would not detect unauthorized access if the terminated employee continued accessing FAMIS.

University Procedure 29.01.03.00.03 *Account Management* indicates that access authorization controls to information resources are to be modified appropriately as an account holder’s employment status or job responsibilities change. This
includes performing a documented review of all access privileges to information resources at least annually by the owners (department heads or administrators). Failure to implement strong logical security practices, including proper management of user account access, can increase the risk of sensitive files or systems being compromised and disruption of critical services.

**Recommendation**

Implement a process to review all access privileges to FAMIS at least annually by the owners (department heads or administrators), and document this review as required by University Procedure 29.01.03.00.03 *Account Management*. For instance, generate a periodic report of all university active users and their access levels and provide this report to departments to verify that the FAMIS access levels for their employees is accurate. Alternatively, consider reviewing FAMIS access levels during annual employee performance evaluations for appropriateness or remove FAMIS access for all employees whenever an employee changes job duties and require the new department to reapply for new FAMIS access needed for the employee.

**Management’s Response**

*The university is in the process of moving FAMIS security responsibilities from Student Business Services to the Comptroller’s office to ensure access is reviewed and granted at appropriate levels along with implementing a quarterly report to management on campus allowing for certification of current roles. Unfortunately, the only report (ZBAR010) available to A&M System members lists all users throughout the entire System but we have reviewed this report as of 1/13/16 and do not have any non-current university employees with FAMIS access. The new quarterly review process will be documented in University Procedure 29.01.03.00.03.*

*Processing changes, reporting changes, and university procedure changes will be implemented by 5/1/2016.*
Basis of Review

Objective and Scope

The overall objective of this audit was to determine if selected financial management services areas at Texas A&M University - San Antonio are operating as intended and in compliance with laws and policies. The review of financial management services at Texas A&M University – San Antonio focused on bank reconciliations, revenue deposits, working funds, contract administration, and FAMIS access. In addition, analyses were performed of selected procurement card data for potential anomalies. Results of these analyses were provided to management for review and comment. The audit period focused primarily on activities from June 1, 2014 to June 30, 2015. Fieldwork was conducted from July to October, 2015.

Methodology

Our review methodology included interviews, observation of processes, review of documentation, and testing of data using sampling as follows:

- To determine if reconciliations for bank accounts were performed timely, properly balanced, contained explanations for all differences noted, and had no outstanding items over a year old unless properly justified, the auditors used professional judgment of perceived risk to select a nonstatistical sample of five reconciliations for testing.

- To determine if revenue deposits were completed accurately and in compliance with A&M System regulations and university procedures, the auditors selected a nonstatistical sample of 30 working days through random selection designed to be representative of the population for testing of deposits. For testing specific to the timeliness of deposits, five of the ten deposit dates were selected using professional judgment of perceived risk for detailed testing of all deposit receipts.

- To determine if working funds were properly accounted for, the auditors selected the university’s one working fund for testing.
To determine if selected contract terms were in compliance with contract requirements and contracts were properly approved, auditors used professional judgment to select a nonstatistical sample of four contracts based on the stated or implied contract amount and perceived risk to the university.

Criteria

Our audit was based upon standards as set forth in Texas A&M University System Policies and Regulations; Texas A&M University – San Antonio administrative procedures; stated contract stipulations; the Committee of Sponsoring Organization’s Internal Control Integrated Framework (COSO); and other sound administrative practices. This audit was conducted in conformance with the Institute of Internal Auditors’ “International Standards for the Professional Practice of Internal Auditing.”

Additionally, we conducted this performance audit in accordance with generally accepted government auditing standards. Those 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 findings and conclusions based on our audit objectives.
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