

Audit



Highlights

Highlights of Legislative Auditor report on the University and Community College System of Nevada's (UCCSN) Capital Construction Projects and Contracting and Bidding Procedures issued January 6, 2005. Report #LA04-20.

Background

The cost of buildings and improvements at UCCSN was approximately \$1.2 billion according to the fiscal year 2003 audited financial statements. NRS Chapters 338 and 341 establish requirements for the construction and management of UCCSN public work projects. Energy retrofits are also subject to the general requirements of NRS Chapters 338 and 341. In addition, specific statutory provisions can apply to retrofit projects. These specific provisions recognize the unique nature and importance of energy conservation and provide optional procedures for procuring and financing these projects.

UCCSN is exempt from NRS Chapter 333—the State Purchasing Act. However, the Board of Regents has established policies for the procurement function at UCCSN institutions. Within UCCSN, there are three purchasing departments responsible for these functions. During fiscal year 2003, these departments purchased more than \$176 million in goods and services.

Purpose of Audit

The purpose of our audit was to determine whether energy retrofit and other capital construction projects and contracting and bidding procedures were carried out in accordance with laws, policies, and appropriate management standards. Our audit included the financial and administrative activities of UCCSN's energy conservation projects, including "shared savings" programs conducted since fiscal year 1993; construction projects initiated during the period July 1, 1998, to June 30, 2003; and purchasing transactions recorded in fiscal year 2003.

Audit Recommendations

This report contains six recommendations to improve the management of capital construction projects and contracting and bidding procedures. Specifically, UCCSN policies and procedures regarding the management of capital construction projects, including the energy retrofit program, and purchasing practices should be developed to help ensure compliance with laws and Board policy. In addition, legislation should be requested to clarify the definition of a public work. Further, UCCSN needs to finalize an agreement with the State Public Works Board outlining project management and inspection responsibilities.

UCCSN accepted all six recommendations.

Status of Recommendations

UCCSN's 60-day plan for corrective action is due on April 4, 2005. In addition, the six-month report on the status of audit recommendations is due on October 4, 2005.

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University and Community College System of Nevada

Capital Construction Projects and Contracting and Bidding Procedures

Results in Brief

UCCSN's internal controls did not always ensure that capital construction projects and contracting and bidding procedures were carried out properly. We found millions of dollars in energy retrofit projects that were not conducted in accordance with state laws, Board of Regents' policies, or appropriate management standards. Due to misinterpretations of law, violations of policies, and opportunities to use a convenient financing method, many of these projects were not awarded through a competitive process. Fair and open competition for contract awards is critical to the success of construction activities. Open competition helps ensure the best price or the best overall value for money spent, in addition to demonstrating to the public that resources are used efficiently and effectively, and that contracts are awarded fairly.

While UCCSN has strengthened some controls over the process, specific policies and procedures are needed to ensure future energy retrofit projects are properly executed. Additional policies and procedures would also improve the general management of all capital construction projects and help ensure purchases are properly executed.

Principal Findings

UNR executed 14 energy retrofit contracts, totaling \$8.2 million, with Sierra Pacific Power Company since 1992. None of the contracts were awarded based on a competitive bidding process. As a result, several projects violated the requirements of NRS Chapter 338. This failure to bid also resulted in allegations of fraudulent acts associated with UNR's management of the retrofit program. However, our examination did not identify evidence to support these allegations. Furthermore, UNLV contracted with e.three Custom Energy Solutions, LLC (e.three) to conduct five retrofit projects totaling \$6.2 million. UNLV's selection of e.three was not the result of a competitive bidding process. Rather, the decision was based on a competitive qualification process conducted by the State Public Works Board.

Public works projects are subject to the prevailing wage provisions of NRS Chapter 338. Our analysis of 21 UNR and UNLV retrofit projects exceeding \$100,000 indicates that only 3 had documentation supporting compliance with prevailing wage requirements. The institutions did not have evidence of compliance on any of the other 18 projects that qualified as public works.

A UCCSN construction project is a public work if 25% or more of the costs of the building, as a whole, are paid from state or federal money. Based on this law, we considered a retrofit project a public work if 25% or more of the building's total cost was provided from these sources. In contrast, UCCSN staff indicate only the funding source of the current project should be considered—not the building's total cost. Because of this disparity of interpretation, clarifying legislation is needed to help ensure an accurate and consistent application of this statutory provision.

From 1992 to 1997, UNR incurred \$4.1 million in third-party loan obligations from nine energy retrofit projects. However, these loan obligations were not created in accordance with NRS Chapter 338 nor contained a nonappropriation clause. As a result, these obligations were in violation of the State's constitutional debt provisions and NRS 353.260 until the contracts were amended in July 1998.

Our examination of 28 construction projects totaling about \$58 million indicated the primary contract document for 14 projects was a purchase order. However, these documents did not contain required contractual clauses and were not approved by the Chancellor if the project exceeded \$400,000. Purchase orders are suitable in some cases but have drawbacks if used in situations involving complex performance requirements. In addition, change orders increased the cost of two projects by more than \$500,000 each. However, these changes were not approved by the proper authority. Without appropriate approval, the validity of change orders may not be ensured.

Forty-three of the purchases we examined were subject to competitive procurement requirements outlined in the Board of Regents' Handbook. A formal bid process was not conducted in three instances and two purchases had only one quote instead of two. Adherence to sound procurement policies and procedures will help ensure UCCSN obtains the best goods or services at the best price.

Audit Division

Legislative Counsel Bureau