DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

2022

Travis County Auditor's Office Review of the Contract for Services with Latino HealthCare Forum

Travis County Auditor's Office
Risk Evaluation and Consulting Division

October 17, 2022

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

TRAVIS COUNTY
AUDITOR'S OFFICE

PATTI SMITH, CPA
COUNTY AUDITOR

TRAVIS COUNTY
700 LAVACA
P.O. BOX 1748
AUSTIN, TX 78767
(512) 854-9125
FAX: (512) 854-9164

To: Pilar Sanchez
County Executive for Health and Human Services (HHS)

From: Patti Smith, CPA
Travis County Auditor

Date: October 17, 2022

Subject: Travis County contract with the Latino Healthcare Forum

Scheduled as part of our statutory requirements, the Risk Evaluation and Consulting Division (REC) of the Travis County Auditor's Office has completed a review of contract for services #4400005595 between Travis County and the Latino HealthCare Forum (LHF). This now-expired contract, administered by HHS, related to "PPE distribution within Austin (&) Travis County boundaries in geographic locations and zip codes with high numbers of COVID-19 cases and positivity rates." As a result of our review, we are providing this report detailing our findings and recommendations.

BACKGROUND

See background section on page 5 of this report.

METHODOLOGY

Our review methodology was based on applying sampling procedures to applicable records and on verbal and written representations from the parties involved. Sampling relates to examining on a test basis, evidence supporting the amounts and disclosures in the financial records and statements. The use of sampling techniques would not necessarily disclose all material issue related to this contract. Regarding the written and verbal representations made by the parties involved in this contract, the assertions we relied upon were correct to the best of our knowledge.

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

SCOPE

This review's scope included an assessment of the adequacy and reasonableness of the financial records and supporting documents relevant to this contract. We examined all payment requests related to the 7.5-month contract period.

SUMMARY OF FINDINGS

During our review of this contract and the associated invoices, we noted the following:

- Related party transactions were not accounted for properly.
- The fiscal agent memorandum of understanding related to this contract was not approved by HHS as required.
- Fiscal agency fees were not properly computed and paid on this contract, including a $8,239.88 overpayment.

EXAMINATION TEAM

David Jungerman, Senior Auditor
Ely Allen, Grant Auditor

CLOSING

This report is intended solely for the information and use of your department and the Commissioners Court. We greatly appreciate the cooperation and assistance received from the management and staff of HHS during this examination. Please contact us if you have any questions or concerns regarding this report.

DocuSigned by:
David Jungerman
5B5801D13DFE48D...
David Jungerman, CIA
Chief Assistant County Auditor II
Risk Evaluation & Consulting Division

DocuSigned by:
Patti Smith
53FF54208086479...
Patti Smith, CPA
Travis County Auditor

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

REPORT DISTRIBUTION

Amy Clark Meachum, Judge, 201st Judicial District
Brenda Kennedy, Judge, 403rd Judicial District
Andy Brown, Travis County Judge
Jeff Travillion, Commissioner, Precinct 1
Brigid Shea, Commissioner, Precinct 2
Ann Howard, Commissioner, Precinct 3
Margaret Gomez, Commissioner, Precinct 4
Jessica Rio, County Executive, Planning and Budget Office
Lawrence Lyman, HHS Division Director
Travis County Executive Managers
Managers, Travis County Auditor's Office
Examination File

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

BACKGROUND

The following parties and entities were involved in this contract and the audit; how they interrelate will be detailed in this section as well:

- Austin Latino Coalition (ALC) – An alliance of Latino-focused organizations and individuals established in 2013 to promote civic involvement and self-determination by Latinos in the City of Austin.

- Latino HealthCare Forum (LHF) – One of the non-profit organizations that make up the Austin Latino Coalition. It was established to support a positive transformation of the healthcare system, help strengthen the healthcare infrastructure and workforce, and advance the health, safety, and well-being for vulnerable, hard-to-reach populations.

- Saldana Public Relations (SPR) – A for-profit business established to "meet (their) clients' needs for building awareness, trust, and credibility for (the clients') projects, services, or brands within Austin's diverse communities".

- Paul M. Saldana – Coordinator/Leader of the Austin Latino Coalition & Sole Proprietor of Saldana Public Relations.

- Jill Ramirez – President & CEO of Latino HealthCare Forum at time of signing contract (now listed as Executive Director).

Proposal
On December 18, 2020, a contract proposal was submitted to Travis County from the Austin Latino Coalition (ALC) for "the distribution of PPE Supplies, bilingual public education, prevention, and resources to support the residents of Austin, Travis County during the…COVID-19 pandemic." The letter was authored by Coordinator/Leader of the Austin Latino Coalition, Paul M. Saldana, and signed by Jill Ramirez.

Contract
Contract No. 4400005595 was signed by Jill Ramirez on March 5, 2021, and subsequently signed by the appropriate County officials. The Contract denotes a timeline of February 15, 2021, to September 30, 2021, and a budget of $100,000.

The parties to this contract are Travis County and LHF; there is no mention of ALC in the signed contract. The County was unable to contract with ALC itself, as this alliance of persons and organizations is not a legal entity with authority to enter into contracts. As a result, LHF, a registered non-profit and member of ALC, was selected as a legal entity with whom the County could legally partner.

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

Areas of Concern

1. Approval of Memorandum of Understanding (MOU)

We have been unable to verify that the appropriate parties in HHS reviewed and approved the MOU between LHF and ALC. In this connection, Section 22.1 of the contract with LHF regarding prior approval of subcontracts states the following:

> *Contractor will not be reimbursed for costs incurred by any Subcontractors for any service or activity relating to the performance of this Contract without the prior written approval of County or the prior written waiver of this right of approval from County through the Purchasing Agent. Approval of this Contract will constitute approval as required by this Section 22.1 for those Subcontracts/Subcontractors specifically identified in the Contract terms, including the Attachments. Contractor will provide County written notification of any change in vendor or subcontractor (including consultants) which has been identified in Contractor's budget prior to submission of a Payment Request related to such vendor or subcontractor in order to ensure timely payment.*

We also noted that during the contract period, LHF received $15,000 in fiscal agent fees from Travis County based on the terms of this MOU. This fiscal agent fee is not discussed in the contract between Travis County and LHF.

Significance/Recommendation

County contract compliance personnel should be informed by the contracted party regarding any subcontract agreements. These agreements should be thoroughly reviewed and approved to ensure that they are in line with County policies, the relevant statutes/regulations, and the primary contract. In this case, HHS should have noted that a likely subcontract agreement had been signed when the fiscal agent fees were charged. We recommend HHS improve their processes to help ensure this important function occurs.

2. Fiscal Agent Fees

Regarding the $15,000 in fiscal agent fees paid to LHF by Travis County noted above, the fiscal sponsorship agreement between LHF and ALC states the following (highlights added):

> *For the performance of its The Latino HealthCare Forum services described herein, The Latino HealthCare Forum shall be reimbursed for its administrative and overhead costs in an amount equal to 15% of the Project funds as is authorized in Project grant agreements. In addition, The Latino HealthCare Forum may be reimbursed for any increase in its out-of-pocket costs attributable to the performance of its The Latino HealthCare Forum services, e.g., increased insurance costs to cover Project activities, and increased audit costs for an audit of Project funds. The parties agree that all such payments are a reasonable approximation of The Latino HealthCare Forum's costs incurred in performing its fiscal sponsor services.*

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

LHF management stated that they did not maintain detailed records related to the underlying costs intended to be recouped with the fiscal agent fees, and that these fees included direct and indirect/overhead costs. The contract between the County and LHF states the following regarding actual costs in Section 7.1.1 Reimbursement Only (highlight added):

> *Contractor agrees that, unless otherwise specifically provided for in this Contract, payment by County under the terms of this Contract is made on a reimbursement basis only. Contractor must have incurred and paid costs prior to those actual costs being invoiced and considered allowable under this Contract and subject to payment by County.*

In addition, contract Section 7.4 Indirect Costs states that "indirect Costs, as defined by generally accepted accounting principles, are not considered to be allowable costs under this Contract.

Further complicating the reasonableness of the fiscal agent fee, total costs paid on this contract, not including the fiscal agent fee, total $45,067.49 (net of credits). This amount would presumably be the "Project funds" noted in the fiscal sponsorship agreement. That amount multiplied by 15% is $6,760.12. Therefore, Travis County overpaid the fiscal agent fee by $8,239.88 ($15,000-6,760.12).

3. Non-arm's length transactions

Coordination and outreach related to the distribution of PPE was performed by Saldana Public Relations, owned by sole proprietor Paul Saldana, according to our interview with Mr. Saldana. Mr. Saldana also signed for ALC in the MOU between LHF and the ALC utilizing the title "coordinator".

Mr. Saldana stated in an interview that he was one of multiple parties that participated in procurement decisions for ALC. Given Mr. Saldana's management-level position with ALC and ownership of the for-profit entity SPR, transactions between SPR and ALC should be considered non-arm's length in nature.

A non-arm's length transaction, also known as an arm-in-arm transaction, refers to a business deal in which buyers and sellers have an identity of interest; in short, buyers and sellers have an existing relationship, whether business-related or personal. SPR billed LHF $3,000 per month, or $1,500 per event, for the services described above, for a total of $22,500 (net of credits) for the contract period. The funds billed were subsequently paid in full by the County to LHF.

We requested a copy of the contract between SPR and ALC/LHF on multiple occasions. No contract was provided, and we could not substantiate if a contract exists between the entities. SPR is not a party to the Contract between the County and LHF.

Significance/Recommendation

Any non-arm's length transactions should have been vetted and approved by HHS. It is extremely questionable that the owner of a for-profit entity was in a management position of the non-profit coalition while billing said entity for services rendered. We are unable at this time to determine the actual costs and profit margin associated with the $1,500 per-event billings from SPR.

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

Given the non-arm's length nature of the relationship between SPR and ALC/LHF, the invoices from SPR should not be considered "vendor/client"; a relationship under which profit for SPR would be reasonable. Instead, these parties should be considered as a single, related entity and only actual direct costs associated with SPR's efforts would be reimbursable under the contract.

We recommend that HHS consult with the County Attorney's Office regarding the legality of this situation and options going forward.

Overall Management Response:

HHS management concurs with the findings of this audit – standard contracting practices and procedures were not followed. We do however offer the following qualifiers:

- This program provided essential PPE and educational outreach to families who may otherwise not have had access to supplies to keep themselves protected during the pandemic. During the contract period, the program held 73 PPE distribution events and distributed over 44,000 PPE kits and educational materials.

- This contract was entered into under exigent circumstances at the peak of the COVID-19 pandemic in early 2021. HHS was not alone in Travis County, during that time, trying to respond as quickly as possible to unprecedented conditions.

- There was a quantifiable unmet need for PPE by the Latino community – in that timeframe, over 50% of COVID infections and deaths were experienced by the Latino community—at many times, a disenfranchised and vulnerable population due to their work in the service and construction industries.

- At this time, staff across the County were stretched beyond capacity. Therefore, processes both within and outside HHS were compressed, preventing review that met our established standards.

Through subsequent processes, HHS and our partners in the County Attorney's Office, County Auditor's office, and County Purchasing office have developed new and enhanced practices to ensure that we can avoid similar issues in the future.

Based on the findings of this audit, we will review our internal processes to confirm that we have and follow standard best practices to minimize risk to the County.

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

Other Issues Noted

1. Budget Issues

The original proposal for this contract included a request for $100,000 across a 12-month timeline and a minimum of two events per month. The proposed budget included $51,000 of consulting and professional fees ($15,000 for the grant administrator and fiscal agent and $36,000 for the Campaign Coordinator) and $49,000 for materials and supplies.

During the contract process, this proposed timeline was negotiated to include 16 events over 7.5 months, February 15, 2021, through September 30, 2021, specifically. The final contract budget included $1,200 for storage unit rental, $49,800 for the campaign coordinator and fiscal agent, $46,500 for PPE kit supplies, and $2,500 for PPE recycle bags, for a total of $100,000. It appears that the contract was not properly updated to reflect the updated 7.5-month timeline. The following chart details the budget versus actual spending on this now-completed contract:

	Contract Budget	Actual Payments net of Credits	Difference	%
Storage Unit Rental	1,200.00	1,229.99	-29.99	-2.50%
PPE	46,500.00	21,337.50	25,162.50	54.11%
PPE Recycling Bags	2,500.00	0.00	2,500.00	100.00%
Campaign Coordinator/Fiscal Agent	49,800.00	37,500.00	12,300.00	24.70%
Total	100,000.00	60,067.49	39,932.51	39.93%

The following chart details actual spending versus a budget based on 7.5 months:

	Corrected Budget (7.5 months)	Actual Payments net of Credits	Difference	%
Storage Unit Rental	750.00	1,229.99	-479.99	-64.00%
PPE	29,062.50	21,337.50	7,725.00	26.58%
PPE Recycling Bags	1,562.50	0.00	1,562.50	100.00%
Campaign Coordinator/Fiscal Agent	31,125.00	37,500.00	-6,375.00	-20.48%
Total	62,500.00	60,067.49	2,432.51	3.89%

Significance/Recommendation

Contract review processes should be sufficient to ensure that contractual budgets properly reflect the intended contractual amounts and time periods to ensure the County funds are not disbursed inappropriately.

DocuSign Envelope ID: 06E6C8A0-553E-4E20-BFD9-A3196D2DBE65

2. Legal Issues

On June 7, 2022, William H. Farrell of Farrell Law Group PLLC reached out to Travis County seeking "a copy of the contract/grant awarded (to) the Austin Latino Coalition and/or Mr. Paul Saldana." Farrell claimed that Mr. Saldana had "advised (their) client that he was using those funds to pay for masks during the pandemic; however, despite his alleged receipt of funding for same, Mr. Saldana (had) failed to properly pay for the items delivered."

Mr. Saldana stated that this matter arose from a billing dispute and that legal proceedings were ongoing. This item is included for informational purposes. We are unable to opine of the reasonableness of either party's claims or potential further County involvement in this matter.