

# LEGISLATIVE AUDIT COMMISSION



Performance Audit  
Of  
Certain Financial and Business Processes  
Of the  
University of Illinois Board of Trustees

January 2012

622 Stratton Office Building  
Springfield, Illinois 62706  
217/782-7097

**Performance Audit  
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**RECOMMENDATIONS - 20**

**Background**

The Board of Trustees (Board) is the governing body of the University of Illinois (University) and has final authority over University activity, including the proper use of funds appropriated by the General Assembly.

The current Board consists of 13 trustees, eleven of whom have official votes. The Governor appoints nine trustees for terms of six years, and three student representatives are elected by the University campuses (Chicago, Springfield, and Urbana). The Governor serves as an ex-officio member of the Board. The Board was reconstituted during the audit period. In September 2009, the Governor appointed seven new members to the Board. Two members retained their positions.

The Board has established a set of formal statutes and regulations which provide a detailed framework for the governance of the University. The current Board drastically reduced the number of Board committees from 14 to 5. Former Board trustees reported that not all committees were very active, but current Board trustees indicated the reduction move was done to back away from having the Board so intimately involved with every action of the University. The Board also increased the spending threshold that requires Board authorization for transactions.

On March 2, 2010, the Legislative Audit Commission adopted Resolution Number 139, which directed the Auditor General to conduct an audit of certain financial and business processes for which the University Board has responsibility. Resolution Number 139 focused specifically on transactions approved by the Board during the period 2007 through 2009 involving purchasing, finance and investment, and construction. The University Board requested that the Legislative Audit Commission authorize and direct the Auditor General to conduct this independent external audit and report its conclusions to the Board.

**Report Conclusions**

- The Board utilized the Executive Committee during the audit period for issues that were either not urgent in nature, or were matters that should have been discussed and voted on by the full Board.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- **Purchasing Transactions:** During the audit period the Board approved 337 purchases totaling \$602 million based on dollar thresholds established by the Board in 2005. Auditors found:
  - The University did not provide complete and accurate information to the Board related to purchasing transactions for approval as required by Board policy.
  - The criteria reviewed on evaluations were not maintained in all procurement files; and the required evaluation criteria listed in the RFP was not always consistent with the criteria in the evaluation process.
  - The University did not maintain individual evaluations for each committee member in the file.
  - The University did not maintain complete evaluations for each procurement transaction in the sample.
  - The University's procurement files contained evaluation scoring errors.
- **Finance and Investment Transactions:** During testing, auditors identified a potential conflict of interest involving a Board official that recommends firms to the full Board for financing activities. Also, the University utilized a two-team evaluation approach for the procurement of a financial advisor that was outside usual University evaluation procedures; did not maintain supporting files for the procurement of all the financing parties; utilized financing parties with which the University did not have a current contractual agreement; and overpaid bond counsel and issuer's counsel vendors based on an examination of the contractual rates for those services.
- **Construction Transactions:** During the audit period, the University submitted, and the Board approved, \$981 million in construction related transactions. Auditors found:
  - Inconsistencies, errors, and discrepancies during the review of the University's evaluation process for A/E professional service consultants. In addition, the over involvement of personnel external to the evaluation committee was identified during the review of the University's selection process for A/E professional service consultants.
  - The University was not obtaining sufficient information for contractors and subcontractors including MAFBE information. The University was also not ensuring MAFBE information proposed in bids was consistent with MAFBE information listed in final University contracts.

The audit report contains 20 recommendations, 18 directed to the University and two to the Board. The University and Board generally agreed with the recommendations.

**RECOMMENDATIONS**

- 1. The University should be consistent and take the steps necessary to ensure that all University transactions that meet or exceed Board thresholds are submitted for approval.**

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

**Findings:** The Board has certain authorization levels for transactions it must approve. These authorization levels have changed over time. Current Board trustees and trustees from the previous Board differ on what oversight level needs to be maintained by the Board. Exhibit 1-5 provides the changes in authorization levels over the past decade.

Exhibit 1-5 <b>BOARD OF TRUSTEES AUTHORIZATION LEVELS</b> 2000-2010				
<i>Purchase Category</i>	<i>Prior to June 2000</i>	<i>June 2000</i>	<i>September 2005</i>	<i>January 2010</i>
Equipment & Supplies	\$100,000	\$500,000	\$200,000	\$1,000,000
Professional Services	\$50,000	\$250,000	\$100,000	\$1,000,000
Professional Services	\$50,000	\$500,000	\$150,000	\$1,000,000
Capital Projects				
Capital Projects	\$500,000	\$10,000,000	\$2,000,000	\$5,000,000
Construction Contracts	\$250,000	\$2,500,000	\$500,000	\$2,500,000
Source: OAG developed from Board information.				

Previous Board trustees reported that approval thresholds were lowered as the result of contract concerns. A former University president stated that the thresholds were lowered the same year he took office. He said that there was less willingness to trust management and more desire by the Board to exercise prerogatives. The idea to lower thresholds originated with the Board.

A current Board trustee reported that there were too many transactions associated with the lower thresholds. The trustee mentioned that the current Board is working to attain good staff and make the Board approval process consistent with best practices.

Increasing the authorization levels significantly impacted the amount of University transactions that the Board approves. During the audit period of 2007-2009, the Board approved 202 construction related transactions totaling \$981 million (i.e., new capital projects, professional services contracts for capital projects, and construction contracts). If the new authorizations had been in effect, 18% of the same transactions, totaling \$173 million, would not have needed to be approved by the Board. Other University officials would have had approval authority.

Likewise, with University purchases, during the audit period, the Board approved 337 purchases totaling \$602 million. The new authorization levels would have excluded 240 of those transactions (71%), totaling \$110 million, from Board oversight.

While the University Board approval levels, as changed in 2010, are in line with other member institutions of the Big Ten Conference, the previous Board approval levels, from 2007-2009 are similar to other in-State public universities.

During testing, auditors found that the University had not provided all contractual agreements to the Board as required by Board policy. A review found that the University did

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

submit the vast majority of contracts that were above Board approval thresholds. However, there were four instances where contracts were not consistently submitted to the Board.

**University Response:** The University will establish or enhance procedures to improve consistency, ensuring that all University transactions that meet or exceed Bard thresholds are submitted for approval.

- 2. The Board should ensure that only truly urgent actions are considered during Executive Committee meetings. Additionally, the Board should work with University officials to ensure that non-emergency routine items are ready for consideration at regularly scheduled Board meetings.**

**Findings:** The Board utilized the Executive Committee during the audit period for issues that were either not urgent in nature, or were matters that should have been discussed and voted on by the full Board.

According to information maintained on the Board website, the Board maintains an Executive Committee, which meets and acts upon issues that cannot be postponed until the next regular meeting.

The Executive Committee met 16 times during the audit period for the sole purpose of considering items that were deemed urgent for carrying on the business of the University and that had to be approved prior to the full Board's next regular meeting.

A review of the items discussed led auditors to question the urgency of some items. In other cases, while Board approval may have been needed prior to the next regularly scheduled Board meeting, many of these items were of a non-emergency nature and/or were in process for some time, and should have been presented for consideration at a prior Board meeting when they could have been considered by the entire Board.

According to a former Board Trustee and former University President, once a call has been made for a meeting of the Executive Committee, University campus officials often times added additional items that may not be urgent in nature to the agenda that the officials want the Board to consider.

**Board Response:** All Executive Committee meetings held during the audit period were called by the Chair of the Board via proper "notice" as provided in the Open Meetings Act and conducted in accordance with this Act. The meetings also followed provisions of the Board of trustees Bylaws (Article IV). The meetings were all convened in open session and accessible by the public. The Executive Committee has all the authority of the full Board. The Chair of the Executive Committee or any two members can determine whether a need exists to call a meeting of this committee. All other trustees may participate as non-voting participants. Executive Committee meeting action items and minutes were provided to the Auditor General in May 2010. The University believes it documented the

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

urgency of the matters considered by the Executive Committee in the actions items presented in these meetings and in the minutes of the meetings. For example:

- April 17, 2007 – The Executive Committee approved the life safety fire alarm and high rise sprinkler projects for Urbana campus residence halls and the sale of farmland. The meeting’s minutes state “the sole purpose of this meeting is to consider two items that are urgent for carrying on the business of the University and must be approved by the board prior to the next regular meeting of the board,” and “it was important for the contract to be approved to permit construction to begin as soon as possible in order to have the work completed before the students who will
- July 6, 2007 – The Board appointed three new directors to Prairieland Energy, Inc. because of the “anticipation of the resignation or removal of three exiting directors.” The minutes of this meeting state “the sole purpose of this meeting is to consider an item that is urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- October 17, 2007 – On recommendation of the Urbana chancellor, the varsity football coach employment contract was amended. (Football coaches are not paid from State monies.) The minutes of the meeting state “the sole purpose of the meeting is to consider an item that is urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- December 3, 2007 – the chancellor of the Chicago campus was scheduled to retire on December 31, 2007. An interim chancellor for the Chicago campus had not been identified by the date of the November 2007 Board meeting and it was critical to have the interim chancellor approved by the Board by January 1, 2008, the start date for the interim chancellor. The meeting’s minutes state “the sole purpose of this meeting is to consider items that are urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”  
live in the residence halls arrive in August for the start of the fall 2007 semester.”
- January 25, 2008 – Action taken to approve certain contracts, budgets and leases eight days after the January 2008 Board meeting was because the Chairman of the Buildings and Grounds Committee was absent from the Board meeting and these items (all Building and Grounds Committee items) were deferred because of his absence. These items should have been considered at the January 2008 Board meeting. Thus, receiving approval for the items on the next earliest date was appropriate. Many of the items approved were construction projects for which construction was to begin before the scheduled March 2008 Board meeting date as documented in the listing of contracts approved. The minutes of the meeting of the Executive Committee state “the sole purpose of this meeting is to consider items that are urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- February 11, 2008 – Committee minutes state “to consider items that are urgent for carrying on the business of the University.”

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- February 26, 2008 – Construction contract for Memorial Stadium. The recommendation in the item for action indicates that construction was to begin in March 2008. Minutes of the committee meeting state “to consider items that are urgent for carrying on business of the University.”
- April 8, 2008 – Approvals of non-monetary items in preparation for the May 2008 commencement (honorary degrees, distinguished service medallion). The May 2008 Board meeting was scheduled after the commencement ceremonies. The minutes of the Executive Committee meeting state “The sole purpose of this meeting is to consider items that are urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- April 25, 2008 – Approved \$548,000 in purchases. The Committee minutes state these purchases were to “address damage caused by a fire this winter in the College of Pharmacy building....purchases are urgent due to the need for a spectrometer for continuing research and the restoration is also needed in order to resume work in the affected areas of the building.” The minutes of the meeting state “the sole purpose of this meeting is to consider an item that is urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- June 27, 2008 – Approved certain projects and \$5.6 million in purchases and change orders. The minutes of the meeting document that certain items “were necessitated by the need to comply with the Americans with Disabilities Act....remodeling of some residence halls that must be initiated immediately as well as the critical state of the Rare Book and Manuscript Library....urgent to address the presence of mold in some of the valuable books and materials.” The minutes state that “the sole purpose of this meeting is to consider four items that are urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.”
- August 14, 2008 – Minutes of the Executive Committee document “the sole purpose of the meeting is to consider two items that are urgent.”
- October 24, 2008 – Self-explanatory. Personnel matter (executive compensation) discussed in executive session. This meeting was attended (in person or via telephone) by a number of other Board members. Minutes state “item that is urgent for carrying on business of the University....”
- November 17, 2008 – Approval of an interest rate swap novation because of the bankruptcy of the swap counterparty on a University interest rate swap contract. The bankruptcy constituted a Termination Event for the swap and had to be dealt with immediately. The change of counterparty could not be delayed and required immediate approval by the Board. The urgent nature of the action approved was documented in the minutes and the items stating the University risks incurred because of the counterparty bankruptcy and the need to transfer to a new counter party. The minutes of this meeting state “the sole purpose of this meeting is to consider an item that is urgent for the carrying on the business of the University.”

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- February 9, 2009 – Minutes of the meeting document the purpose of the Executive Committee meeting was “to consider three items that are urgent for carrying on the business of the University.”
- June 24, 2009 – Critical to approve tuition for the upcoming academic year (09-10). The tuition decision had been deferred pending the finalization of the 2009 State legislative and budgetary session and could not be delayed to the July 2009 Board meeting. The minutes of this meeting stated “the sole purpose of this meeting is to consider items that are urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board” and that the Executive Committee was used “due to the fact that a decision was needed in order to inform students and their families of what the University’s tuition and fees would be for the next academic year and this vote could not wait until the next regular meeting of the Board.”

Additional items may have been added for consideration by the Executive Committee, but the primary reason for an Executive Committee meeting was the urgency of a certain matter(s).

We appreciate learning of the expectation for specific documentation of why an urgent need exists for calling an Executive Committee meeting of the Board of Trustees. In the future, whenever it is necessary to call and conduct an Executive Committee meeting, we will provide the facts about the urgency for such a meeting in the recommendation presented or in the minutes of the particular meeting of the Executive Committee.

***Auditor Comment:*** *In its response, the Board states that the “University believes it documented the urgency of the matters considered by the Executive Committee in the action items presented in these meetings and in the minutes of the meetings.” Based on our examination of the documentation presented, we disagree.*

*The Board response to our recommendation provided examples of how the items we questioned were “urgent” enough to call for an Executive Committee meeting. Several of the meeting minutes cited by the Board in its response contain a generic statement, such as “the sole purpose of this meeting is to consider an item that is urgent for carrying on the business of the University and must be approved by the Board prior to the next regular meeting of the Board.” Absent further details as to why the action item could not wait until the next Board meeting, auditors do not concur that the urgency of the matter was adequately documented.*

*With respect to some of the Board examples we note:*

- *The “urgent” nature of the amendment to the varsity football coach employment contract at the October 17, 2007 meeting was questioned by auditors. This was the only item on the agenda. The meeting minutes did not provide an explanation as to why this item could not wait until the next full Board meeting 28 days later on November 14, 2007. The varsity football coach was still under contract for another*

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

*26 months at the time this “urgent” issue needed to be brought before the Executive Committee.*

- *The Board stated that the actions necessitating the January 25, 2008 Executive Committee meeting were due to the absence of the Chairman of the Building and Grounds Committee at the previous full Board meeting eight days earlier on January 17, 2008. The actions involved more than \$60 million in University construction and purchasing approvals. The Board does not cite any bylaw, rule or policy that showed that Board business shall be deferred until a single member of the Board was available. In its response, the Board does note that these items “should have been considered at the January 2008 Board meeting.”*

*The Board admitted that additional items may also have been added to the agendas. Adding items that are not urgent in nature to the agenda violates the Boards own bylaws and increases the perception that there is less accountability when the full Board is not officially involved.*

- 3. The University should take the steps necessary to ensure that all University purchasing transactions that meet or exceed Board thresholds are submitted to the Board for approval and contain accurate information.**

**Findings:** The University has not provided complete and accurate information to the Board related to purchasing transactions for approval as required by Board policy. Auditors tested a sample of transactions to ensure that the University submitted accurate information related to purchase transactions to the Board. In 8% of the transactions tested, the University failed to submit an applicable change order to the Board or provided inaccurate information to the Board on the type of procurement.

**University Response:** The University will establish or enhance procedures to ensure that all University purchasing transactions that meet or exceed Board thresholds are submitted to the Board for approval within the requirements of the Board of Trustees General Rules and that all recommendations contain accurate information.

- 4. The University should take the steps necessary to ensure that all University sole source justification forms are reviewed and that the procurement meets the requirements of a sole source purchase. As part of this review, the University should verify their review through an approval signature and date signed on the sole source justification form.**

**Findings:** The University has not reviewed and approved sole source justification forms as required by University Policy. During a review of the sole source procurements approved by the Board during the audit period, auditors tested to ensure that a sole source purchase transaction was necessary, that the purchase could not be made through another vendor, if

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

the University submitted all documentation required for sole source purchases, and whether the University maintained sole source justification forms. While all 25 files in the sample either contained, or the University subsequently provided, the sole source justification forms,

- 44% of the transactions reviewed (11 of 25) contained a written or electronic signature but did not contain the date signed on the forms. Verification of review and approval was achievable for these transactions but timeliness was not.
- 24% of the transactions reviewed (6 of 25) contained no written or electronic signature or date signed on the forms. Verification of review, approval, and timeliness was not possible for these transactions.

**University Response:** In July of 2010, the University established enhance procedures and revised the sole source justification form to ensure that all University sole source justification forms are reviewed and that the procurement meets the requirements of a sole source purchase. As part of this review, the University verifies their review through an approval signature and date signed on the sole source justification form. The form now contains an appropriate signature, printed name, date, telephone number and email address for both the agency representative and the State Procurement Officer.

- 5. The University should take the steps necessary to ensure that all University sole source justification forms are thoroughly completed and include the copyright or patent numbers when applicable. The University should also thoroughly review all sole source purchases justified by a copyright or patent number and verify these numbers with the support for such review in their files.**

**Findings:** The University has not provided copyright or patent support for all applicable sole source purchases as required. During a review of University sole source purchases between 2007 through 2009 that met the approval thresholds required by the Board, 17 were listed as a sole source due to the reason *“item or service is copyrighted or patented and is not available except from the holder of the copyright or patent.”* Auditors reviewed whether or not the University submitted all documentation required for sole source purchases and noted the following exceptions:

- 18% of the sole source purchases tested (3 of 17) did not have the copyright or patent number included on the Sole Source Justification Form. Two of the three transactions also had no documentation to support the validity of the copyright or patent number in the file. These transactions totaled \$4.8 million.
- 35% of the sole source purchases tested (6 of 17) had the copyright or patent number listed on the sole source justification form but did not have documentation to support the validity of this number in the file. These transactions totaled \$9.6 million.

**University Response:** The University has established and enhanced procedures to document that sole source justification forms are reviewed and the procurement comports with the requirements of a sole source purchase, including verification and documentation of copyright information.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- 6. The University should establish controls to ensure the consistent use of purchase orders and contracts within and across campuses through formal written procedures in University policy. The University should also ensure required signatures on contractual obligations are obtained and State recording /filing requirements are met.**

**Findings:** The University inconsistently used contracts and purchase orders as binding agreements. Additionally, although required in University policy, the University is not always obtaining required signatures on contractual obligations or following required State recording and filing procedures.

During a review of University purchasing transactions, auditors reviewed 25 sole source purchases and 24 competitive purchases between 2007 through 2009 that met the approval thresholds required by the Board. Testing was designed to ensure the procurement files contained a fully executed contract as required by University policy. University officials reported they consider purchase orders to be contractual obligations. Although this may be acceptable, the University is not following the same procedures required for contracts according to University policy. Auditors noted the following exceptions:

- None of the procurement files with a purchase order/lack of contract contained the signatures required by University policy.
- Based on documentation in the files, it was unclear whether those same sampled purchases were routed to University Payables and then to the Illinois State Comptroller as required by University policy and the Illinois Procurement Code.
- Sole Source Sample Exceptions:
  - 8% of the transactions tested (2 of 25) did not contain a contract or a purchase order. These transactions totaled \$7.7 million.
  - 68% of the transactions tested (17 of 25) did not contain signatures from the University or the other party/parties on the contract or the purchase order. These transactions totaled \$18.8 million.
  - Auditors reviewed Urbana campus purchasing files on September 29, 2010 and the files did not contain the information noted above. After follow up with the University the auditors, in April 2011, delivered potential audit findings to the University. In mid-June 2011 the University then supplied some contractual documentation, documentation that was not contained in the purchasing files during the fieldwork site visit.
- Competitive Procurement Sample Exceptions:
  - 4% of the transactions tested (1 of 24) did not contain a contract or a purchase order. This transaction totaled \$436,500.
  - 4% of the transactions tested (1 of 24) were missing one required University signature on the contract. This transaction totaled \$250,000.
  - 33% signatures from the University or the other party/parties on the contract or the purchase order. These transactions totaled \$6.1 million.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

**University Response:** The University will establish or enhance procedures through written policy in the use of purchase orders and contracts. The University will also review existing policy regarding required signatures on contractual obligations to take into consideration the use of purchase orders as a binding contractual obligation.

**7. The University should ensure the Contract Approval Routing Form (CARF) is consistently being completed, signed, and included with each contract document being processed as required by University policy.**

**Findings:** The Contract Approval Routing Form (CARF) is not consistently being completed, signed, and included with each contract document being processed as required by University policy. During a review of University purchasing transactions, auditors reviewed 25 sole source purchases and 24 competitive purchases between 2007 through 2009 that met the approval thresholds required by the Board. Testing was designed to ensure that each purchasing procurement file contained a CARF as required by University policy. The following exceptions related to the CARF were noted:

- 84% of the sole source purchases sampled (21 of 25), did not contain this completed and signed CARF document. Specifically:
  - 19 of 25 files did not contain a CARF.
  - 2 of 25 files contained a CARF but at least one signature was missing.
  - Four files did contain a fully executed CARF.
- 83% of the competitive purchases sampled (20 of 24), did not contain this completed and signed CARF document. Specifically:
  - 10 of 24 files sampled did not contain a CARF.
  - 10 of 24 files sampled contained a CARF but at least one signature was missing.
  - Four files did contain a fully executed CARF.

**University Response:** The University will establish or enhance policy and procedures to ensure consistency in the initiation, signing and filing of CARFs.

**8. The University should:**

- **Ensure the criteria reviewed on evaluations are maintained in the procurement file. Additionally, the University should ensure the required evaluation criteria listed in the RFP is consistent with the criteria reviewed during the evaluation process.**
- **Maintain all evaluation materials including completed score sheets for each individual evaluator in the procurement file. Additionally, the University should ensure evaluations which are completed based on a group consensus should be certified by the group through signatures and dating.**
- **Ensure all evaluation materials that are required to be in the procurement file are complete as directed by the Illinois Procurement Code.**
- **Ensure information submitted to the Board for approval is based on evaluation materials in the procurement file. Moreover, this information**

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

should be accurate and consistent with other documents in the procurement file.

- **Verify information submitted to the Board for approval is based on accurate information from the procurement file. This information should include evaluation materials with no significant scoring variances or calculation errors. If applicable, an associated explanation in the procurement file may be appropriate if such variances/errors are deemed to be acceptable.**
- **Maintain all evaluation materials in the procurement files as required by the Illinois Procurement Code. If applicable, such evaluation materials should include documented support to recognize and address errors and/or changes in the identification of evaluation committee members.**

**Findings:** During testing, auditors found multiple instances where the University failed to maintain appropriate documentation in the procurement files for some transactions.

**Procurement Evaluation Criteria**

The criteria reviewed on evaluations were not maintained in all procurement files. Additionally, the required evaluation criteria listed in the RFP was not always consistent with the criteria reviewed during the evaluation process.

For the 20 RFP transactions reviewed, auditors noted the following exceptions:

- 50% of the transactions tested (10 of 20) had required evaluation criteria listed in the RFP that was not consistent with criteria reviewed by the evaluation committee.
- In 10% of the transactions tested (2 of 20) a determination could not be made due to the lack of documentation in the procurement file and/or provided by the University.

**Maintenance of Individual Evaluation**

The University did not maintain individual evaluations for each committee member in the file. Additionally, University documentation, for some transactions, did not support that the evaluation was based on a group consensus.

- In 15% (3 of 20) of the transactions tested, the University's documentation supported that evaluations were completed based on a group consensus. However, the documentation maintained by the University does not include the signatures for the group members making it impossible for auditors to determine whether it was truly a consensus.
- In 50% (10 of 20) of the transactions, the University did not maintain individual evaluations for each committee member in the file.

## **Performance Audit of Certain Financial and Business Processes Of the University of Illinois Board of Trustees**

### **Complete Procurement Evaluations**

The University did not maintain complete evaluations for each procurement transaction in the sample. Testing was designed to ensure that evaluations maintained by the University were complete.

- In 15% (3 of 20) of the transactions tested, evaluations maintained by the University were not complete.
- In 35% (7 of 20) of the transactions tested, such a determination could not be made due to the lack of documentation in the procurement file and/or provided by the University. The seven transactions totaled over \$15 million.

### **Evaluation Support for Board Documentation**

The University did not maintain point summaries in the procurement files that supported Board documentation for all transactions in the sample. During a review of University purchasing transactions, auditors tested to ensure that the University maintained documentation, including point summaries, in the procurement files to support information submitted to the Board for approval.

- In 10% (2 of 20) of the transactions tested, the University did not maintain documentation that supported the point summaries supporting documentation submitted to the Board for approval.

### **Evaluation Scoring Errors**

The University's procurement files contained evaluation scoring errors. Additionally, there was no evidence in the files to support that such errors were recognized and addressed by the University.

During a review of University purchasing transactions, auditors tested to ensure evaluations did not contain scoring errors, and if scoring errors existed, the University recognized and addressed them.

- In 25% (5 of 20) of the transactions tested, University documentation did not support that the University maintained evaluations with no scoring errors.
- In 25% (5 of 20) of the transactions tested, such a determination could not be made due to the lack of documentation in the procurement file and/or provided by the University. These transactions totaled over \$14 million.

### **Evaluation Committee Inconsistencies**

The University's procurement files contained inconsistencies in the identification of evaluation committee members. Additionally, there was no evidence in the files to support that such inconsistencies were recognized and addressed by the University.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

During a review of University purchasing transactions, auditors tested to ensure that evaluation committee members were identified in the procurement files and remained consistent during the evaluation process, and if inconsistencies existed, the University recognized and addressed them.

- In 15% (3 of 20) of the transactions tested, the University's procurement files contained inconsistencies in the identification of evaluation committee members.
- In 30% (6 of 20) of the transactions tested, such a determination could not be made due to the lack of documentation in the procurement file.

**University Response:** The following constitutes the University's response to Recommendation Number 8 regarding purchasing documentation deficiencies:

- a) The University will establish or enhance procedures to improve and maintain documentation regarding evaluation process as well as its correlation to the initial solicitation.
- b) The University will establish or enhance procedures to improve and maintain documentation of the evaluation process.
- c) The University will establish or enhance procedures to improve and maintain documentation of the evaluation process.
- d) The University will establish or enhance procedures to improve and maintain accurate documentation of the evaluation process for support of recommendations to the Board.
- e) The University will establish or enhance procedures to improve and maintain accurate documentation of the evaluation process for support of recommendations to the Board. However, that portion of the recommendation asserting that evaluation materials should contain no significant scoring variances or if they do should be documented for file is not supported by rules. Scoring variances on individual evaluations should be expected given differences in an individual's interpretation of the submittal materials provided.
- f) The University will establish or enhance procedures to improve and maintain accurate documentation of the evaluation process, including those associated with the evaluation committee.

- 9. The University should ensure protest documents are maintained in the procurement or associated contract file as required by the Illinois Procurement Code. Additionally, the University should ensure that contractor performance reviews are conducted.**

**Findings:** Protest documents were not maintained in the procurement or associated contract files as required by the Illinois Procurement Code. Additionally, auditors did not see evidence that the University conducted contractor performance reviews. During a review of University purchasing transactions, auditors reviewed whether the University maintained contractor performance reviews, and resolved any protests prior to the contract award. For the 49 purchase transactions reviewed, auditors noted the following exceptions:

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- In 100% of the transactions tested (49 of 49), there was no evidence that contractor performance reviews had been completed.
- In 100% of the transactions tested (49 of 49), protest and resolution documents were not maintained in the procurement or associated contract file.
- The files reviewed did not contain documentation to support whether or not there were any relevant protests. When questioned by auditors, University officials responded that there were not any relevant protests for the transactions sampled. Although this may be true, University officials provided additional protest information that was not consistent. Moreover, the separate protest folders provided contained only old information that dated back to 1970 except for one recent letter.

**University Response:** The University will establish or enhance procedures to improve and maintain documentation of protests, or lack thereof. The University will consider conducting a risk/benefit analysis to determine if the initiation of contractor performance reviews is warranted under current resource realities.

**10. The Board of Trustees should follow its procedures to ensure University staff who recommend transactions that the Board votes on be free of any perceived conflict of interest.**

**Findings:** A Board officer recommended action to the Board that resulted in an organization, for which the officer previously worked and still has an ownership interest, obtaining University business.

During a review of the procurement processes utilized by the University in selecting financing parties for debt transactions, auditors examined procurement files maintained by the University. During the 2007-2009 audit period, the Board acted on 11 debt financing transactions totaling \$586 million. These transactions included the selection of financing parties from lists maintained by the treasury operations staff at the University. These transactions, along with the selected financing parties, were recommended to the Board by the Comptroller.

One of the eleven transactions, a \$90 million issue for auxiliary facilities system revenue bonds in 2009, recommended by the Comptroller included the use of an underwriting firm where the Comptroller was previously employed.

- While treasury operations staff select the underwriter from a list of approved vendors, the Comptroller ultimately makes the recommendation to the Board.
- The Comptroller was a managing director with Citigroup in February 2004 when the firm bid on the underwriting procurement opportunity with the University. The Comptroller, during that previous employment, signed the correspondence with Citigroup's response to the RFP.
- The Comptroller did leave employment with the underwriting firm during 2004.

## **Performance Audit of Certain Financial and Business Processes Of the University of Illinois Board of Trustees**

The Comptroller reported having ownership (common stock) “in excess of \$5,000 fair market value or from which dividends in excess of \$1,200” that were derived from the firm in his 2008, 2009, and 2010 Statement of Economic Interest Disclosure filed with the Illinois Secretary of State.

**Board Response:** The Board believes in the finding described that there was no actual conflict or perception of interest as documented in a letter to the Auditor General’s Audit Manager on November 5, 2010 from the Chairman of the Board. That letter documented that the Audit Manager had expressed to the Board Chairman that the University Comptroller “is not doing anything wrong” and the letter further stated that there was no conflict or perception of a conflict. In summary, that letter enumerated the facts as follows:

- The University Comptroller was a Managing Director at “the underwriting firm” and, as one of his responsibilities, signed the response to the RFP from the University for approved underwriters in early 2004.
- The University Comptroller left his position at “the underwriting firm” in April 2004 and assumed a senior financial position at an entity unrelated to “the underwriting firm” or the University where he remained through January 2007, or a period of 33 months.
- The University Comptroller assumed his position with the University on February 1, 2007.
- On May 19, 2005, the University Board of Trustees approved the issuance of “Variable Rate Demand Auxiliary Facilities System Revenue Bonds, Series 2005B” approving “the underwriting firm” as underwriter as recommended by the then Vice President of Administration.
- On September 11, 2008, 53 months after the University Comptroller left employment at “the underwriting firm”, the Board of Trustees approved actions that would lead to the issuance of “Auxiliary Facilities System Revenue Bonds, Series 2008B”, a refunding of the 2005B bonds. Because of the worldwide credit crisis, the financial institution that had provided the credit/liquidity support facility for the 2005B bonds had been downgraded negatively affecting the interest rate on those bonds. But for the credit deterioration of the credit/liquidity support facility for the 2005B transaction, a refunding transaction would not have been proposed. The needed replacement of the credit/liquidity support facility required, by law, a refunding transaction. The University Comptroller recommended retention of “the underwriting firm” for the Series 2008B refunding transaction though no Series 2008B were issued.
- On January 15, 2009, the University Board of Trustees approved the issuance of “Auxiliary System Revenue Bonds, Series 2009A” for the purpose of refunding the Series 2005B bonds and added \$10 million for the Illini Union Project. In another transaction, the Board also approved actions to refund certain Certificates of Participation for the same reasons (credit deterioration of the credit/liquidity support bank) while retaining the original underwriter (not “the underwriting firm”).
- On March 11, 2009, the Board approved an additional \$8.5 million to the Series 2009A transaction for the South Campus Mixed Use Development in Chicago.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- On March 19, 2009, 59 months after the University Comptroller left “the underwriting firm”, the Series 2009A bonds were issued.

The University Comptroller did report his nominal ownership of common stock of “the underwriting firm” in his Statement of Economic Interests. The significant deterioration in market value of this stock over the prior three years is public knowledge and it is inconceivable that this transaction would have an effect on the stock’s value. There was no personal gain to the University Comptroller from this transaction.

Five years had passed between the University Comptroller’s departure from “the underwriting firm” and the issuance of the Series 2009A bonds. This timing significantly exceeds any lawful or ethical standard measures of time to avoid an actual conflict of interest or, for that matter, the perception of conflict.

This finding and the response described above were fully presented and discussed with the Governance, Personnel and Ethics Committee of the University Board on November 5, 2010 concluding with support for the University Comptroller’s position.

***Auditor Comment:*** *As stated in the finding, University policy (OBFS Section 2.2-Approval of Financial Documents) addresses conflicts of interest and states that approvers of business transactions cannot approve transactions where a conflict of interest would be perceived. The policy further states “conflict of interest” may take various forms, but arise when an employee is in a position to influence University business or other decisions in ways that could lead to any form of personal gain for the employee.*

*The Board response states this “finding and the response described above were fully presented and discussed with the Governance, Personnel and Ethics Committee of the University Board on November 5, 2010 concluding with support for the University Comptroller’s position.” This presentation came only after we spoke with the Comptroller on October 10, 2010 and sent a potential audit finding to the Board on October 25, 2010. While we do not agree or disagree with the Board’s determination in this specific matter, we point out that the Board could only make that determination after being made aware of the potential conflict. The correct time for this disclosure would have been before recommending the firm for University business, not after the fact when auditors identified the issue.*

*Although the employee’s ongoing ownership interest in the recommended vendor was disclosed on his Statement of Economic Interest, the auditors were provided no evidence that the Board was aware of this potential conflict at the time the vendor was recommended or at any time prior to the issue being raised by the auditors.*

**11. When procuring the services of external financing parties the University should:**

- **Maintain appropriate documentation to support the selection of firms to perform financial advisory services for University transactions including signed**

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

individual scoring sheets by evaluation team members that provide evidence that a fair and competitive procurement process was followed. Additionally, the University should maintain procurement files for activities that are currently being paid for with University funds. Finally, the University should either formalize a process for using a two-team evaluation approach in University procedures or ensure that documentation is maintained in the procurement file demonstrating that changes were made to the evaluation committee during the procurement process and why.

- **Maintain appropriate documentation to support the selection of firms to perform underwriting services for University transactions including individual scoring sheets by evaluation team members that provide evidence that a fair and competitive procurement process was followed. Additionally, the University should ensure that the procurement file for the underwriting procurement activity contains copies of pricing for all vendors awarded University business and copies of executed contracts for those services.**
- **Maintain appropriate documentation to support the selection of firms to perform bond counsel services for University transactions. Further, the University should ensure that a valid contract is in effect for all debt transactions processed by the University. Finally, the University should maintain appropriate documentation to support that contractual rates were paid for bond counsel services.**
- **Require its evaluation teams to completely and adequately document the scoring for award of University business for Issuer's Counsel services; document the emergent necessity to continue operating under agreements which have expired; timely re-bid for Issuer's Counsel services; and, ensure that professional fees, as delineated in contractual agreements for Issuer's Counsel services, are complied with.**
- **Maintain appropriate documentation to support the selection of firms to perform trustee/paying agent/registrar services for University transactions.**

**Findings: Financial Advisor:** The University did not maintain documentation to support why it utilized different individuals in evaluating the technical and interview portions of the selection of Financial Advisors for University financing projects. Additionally, the University was unable to provide procurement documentation for the Financial Advisors utilized during the majority of the audit period. During the audit period the University paid \$530,219 in fees to the Financial Advisors.

**Underwriters**

The University did not maintain documentation to support the selection of Underwriters for University financing projects. Additionally, the procurement file did not contain pricing information for all firms that were paid underwriting fees during the audit period.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

**Bond Counsel**

The University did not maintain documentation to support the selection of Bond Counsel for University financing projects. Additionally, payments to counsel during the audit period did not always match contractual rates. Finally, the contractual agreements with firms, including renewals, ended on June 30, 2008. The University continued to utilize these firms without an agreement during FY09. In five transactions during the audit period, the University overpaid for bond counsel services by \$52,256.

**Issuer's Counsel**

The University did not maintain documentation to support the selection of Issuer's Counsel for University financing projects. Additionally, payments to counsel during the audit period did not always match contractual rates. Finally, the contractual agreements with firms, including renewals, ended on June 30, 2007. The University continued to utilize these firms without an agreement during FY09. In four financing transactions, the University overpaid for issuer counsel service by \$53,819.

**Trustee/Paying Agent/Registrar**

The University did not maintain documentation to support the selection of a Trustee/Paying Agent/Registrar, which the University has utilized since 1996.

**University Response:** The following constitutes the University's response to Recommendation Number 11 regarding procurement of external financing parties:

- a) The University will enhance or establish procedures to improve and maintain documentation of procurement undertakings, including information related to evaluation processes and retention of evaluation materials. Capital Financing, in conjunction with Purchasing, has instituted a procedure for the acquisition of services through the RFP process. Responses to RFPs are evaluated by an Evaluation Team comprised of two groups: the Technical Review Committee (TRC) and the Interview Committee (IC). Interviews are optional and may be required if several of the respondents are new to the University or if the scoring from the TRC is relatively close. The procedure for the acquisition of services starts with the development of a timeline for the process. Documents used in this process include: the Evaluation Instructions; the Summary of Technical & Pricing Scoring; the Technical Evaluation Scoring Grid for each Evaluation Team member (signed by each Evaluation Team Member); the Pricing Scoring Grid; and the (optional) Interview Evaluation Scoring Grid. These documents are kept in the procurement file for the service and maintained by Purchasing.
- b) The University will enhance or establish procedures to improve and maintain documentation of procurement undertakings, including appropriate retention of vendor pricing information and executed contract documents. Capital Financing, in conjunction with Purchasing, has instituted a procedure for the acquisition of services through the RFP process. Responses to RFPs are evaluated by an

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

Evaluation Team comprised of two groups: the Technical Review Committee (TRC) and the Interview Committee (IC). Interviews are optional and may be required if several of the respondents are new to the University or if the scoring from the TRC is relatively close. The procedure for the acquisition of services starts with the development of a timeline for the process. Documents used in this process include: the Evaluation Instructions; the Summary of Technical & Pricing Scoring; the Technical Evaluation Scoring Grid for each Evaluation Team member (signed by each Evaluation Team Member); the Pricing Scoring Grid; and the (optional) Interview Evaluation Scoring Grid. These documents are kept in the procurement file for the service and maintained by Purchasing. The procurement file also contains the RFP and the responses to the RFP including the Pricing proposals. The bond transcripts contain the executed contract for Underwriter services and are maintained in Capital Financing.

- c) The University will enhance or establish procedures to improve and maintain documentation of procurement undertakings, including information related to the duration of contracts and payment terms. Bond Counsel fees are reviewed by University Legal Counsel and Capital Financing and records are maintained by Capital Financing. The statement of overpayment of \$52,256 to bond counsel is accurate. But on other similar transactions that occurred during the audit time period, the University underpaid bond counsel by \$73,341. The net underpayment for the audit period was \$21,085 for bond counsel.
- d) The University will enhance or establish procedures to improve and maintain documentation of procurement undertakings, including information related to evaluations, duration of contracts, any emergent circumstances, and payment terms. The University will continue to pursue timely selection of professional services with the confines of the Illinois Procurement Code, including initial solicitations and renewals. The statement of overpayment of \$53,819 to issuer's counsel is accurate. But on other similar transactions that occurred during the audit time period, the University underpaid issuer's counsel by \$73,524. The net underpayment for the audit period was \$19,705 for issuer's counsel.
- e) The University will enhance or establish procedures to improve and maintain documentation of procurement undertakings, including appropriate retention of processes and expenditures. Capital Financing, in conjunction with Purchasing, has instituted a procedure for the acquisition of services through the RFP process. Responses to RFPs are evaluated by an Evaluation Team comprised of two groups: the Technical Review Committee (TRC) and the Interview Committee (IC). Interviews are optional and may be required if several of the respondents are new to the University or if the scoring from the TRC is relatively close. The procedure for the acquisition of services starts with the development of a timeline for the process. Documents used in this process include: the Evaluation Instructions; the Summary of Technical & Pricing Scoring; the Technical Evaluation Scoring Grid for each Evaluation Team member (signed by each Evaluation Team Member); the Pricing Scoring Grid; and the (optional) Interview Evaluation Scoring Grid. These documents are kept in the procurement file for the service and maintained by Purchasing. Because of industry consolidation, there are few Trustee/Paying

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

Agent/Registrar firms with the scale necessary to serve the University. Bank of New York Mellon is one of the largest surviving firms. The State of Illinois recently selected Bank of New York Mellon as the Paying Agent for the Rail-splitter bond issue. The re-bid process for the Trustee/Paying Agent/Registrar services was completed by the University on October 31, 2011.

- 12. The University should establish a University policy with specific requirements related to the selection, approval, and use of construction managers. This policy should ensure the maintenance of sufficient documentation regarding the selection of construction managers and justification for the necessity of their services.**

**Findings:** During the audit period, the University's Qualifications Based Selection (QBS) policy for capital professional services incorrectly included "construction managers" in the procurement policy with the selection of architects and engineers. Although the University policy is based on the QBS Act (30 ILCS 535), the QBS Act does not include "construction managers" in the procurement policy with the selection of architects and engineers. Further, there is no University policy detailing the selection of construction managers as there is for other capital professional services (i.e., architects and engineers).

A review of transactions related to projects showed:

- In all (5 of 5) of construction projects reviewed with a construction manager, there was insufficient documentation provided to support the selection of the construction manager.
- The selection of a general or division contractor is based on the lowest bid, a construction manager is not. With a general or division contractor, the University knows the cost estimate upfront and the winning vendor is selected based on the lowest bid. With a construction manager, the University does not know the cost estimate until after the construction manager is selected and fees are negotiated.
- According to the Illinois Procurement Code, a "formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation" shall not be sought in any case prior to the selection of a construction manager for negotiation.
- There are no University policies detailing the specific requirements related to construction managers.
  - There is no written policy explaining the criteria needed for utilizing a construction manager versus a general contractor. University officials in Facilities and Services stated a construction manager versus a general contractor is used when the project is considered high risk.
  - There is no written policy detailing the selection and approval process for construction managers. University officials in Facilities and Services stated the Executive Director for Construction makes the final decision based on a recommendation from the Director of Construction Management.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- There is no written policy designating when the construction manager should be approved by the Board. University officials in Facilities and Services stated the construction manager is approved separately from the rest of the project.

**University Response:** The University's Qualifications Based Selection Policy was updated on June 9, 2010 which removed the references to "Construction Manager". A policy with guidelines for selection of construction managers for University capital projects has been drafted and will be implemented.

**13. The University should establish a University policy detailing requirements related to the selection of construction contractors with bid proposals containing base and alternate bid prices. These policies should ensure the consistent selection of contractors with these types of proposals as well as the documented support for current practices followed.**

**Findings:** There is no University policy regarding the selection of construction contractors with bid proposals containing base and alternate bid prices. As a result, the University is not consistently following the same steps when selecting contractors with these types of proposals.

During a review of the University's construction processes, auditors examined 25 construction transactions that met Board approval thresholds and examined the University's process for selecting bidders in transactions where base and alternate bids were requested as part of the bid proposal. There were 15 construction transactions and the University was not consistently applying evaluation procedures, and in some cases deviated from original bid specifications, for these types of construction transactions.

In 60% (9 of 15) of transactions, the University deviated from the original alternates requested after the submission of bid proposals for at least one division.

In 60% (9 of 15) of transactions, the University was inconsistently designating bidders as responsive or non-responsive when selecting construction contractors with bid proposals requesting base and alternate prices.

**University Response:** The University will develop and implement a policy governing the method for utilizing alternate bids.

**14. The University should maintain solicitation and procurement bulletin documentation as required by the Administrative Code. Additionally, the University should ensure that all construction contracts are maintained for each division and these contracts contain all required signatures.**

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

**Findings:** The University failed to maintain solicitation and procurement bulletin documentation in all construction transactions reviewed. Additionally, the University failed to maintain signed contractual agreements in the files for all construction transactions.

During a review of the University's construction processes, auditors examined 25 construction transactions that met Board approval thresholds. Of the 25 transactions, one transaction was related to the Board approval of a professional service consultant amendment. As a result, the University should have maintained solicitation and procurement bulletin documentation for 24 construction transactions reviewed.

Auditors examined the procurement files and considered sufficient any file that had a copy of the Invitation for Bid or a copy of the Notice of Award. However,

- In 4% (1 of 24) of construction transactions reviewed, the University failed to maintain a copy of the Invitation for Construction Bid. This was a project to replace the water system at the Applied Health Sciences Building on the Chicago campus. The transaction in the sample was valued at \$1,064,996.
- In 4% (1 of 24) of construction transactions reviewed, the University failed to maintain procurement bulletin documentation. This sample transaction was for a job order contractor at the Urbana campus and totaled an estimated \$4 million.

Construction contracts consistently required the following signatures: Contractor, University Comptroller, Board Secretary, Director of Campus Construction Unit, University President (over \$250,000) and University Counsel (over \$250,000). In 12% (3 of 25) of construction transactions reviewed, a division contract or required contract signature was missing.

**University Response:** The University maintains procurement file documentation in electronic and paper format. All construction contracts are maintained for each division with all required signatures with the University's Board of Trustees' contract imaging system. This system is in a secure environment and maintains the fully signed contracts that are referenced in the discussion of Recommendation Number 14. In order to gain efficiency, the University will continue to refine its processes and continue the transition to an electronic record management system.

- 15. The University should maintain adequate documentation to support the process of selecting Professional Services Consultants associated with construction transactions. The University should ensure that all required evaluation materials are included in the file as directed by the Illinois Procurement Code and Illinois Administrative Code.**

**Findings:** The University failed to maintain adequate documentation to support the process for selecting Professional Services Consultants associated with construction transactions reviewed.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

During a review of the University's construction processes, auditors examined 25 construction transactions that met Board approval thresholds. Of these cases, four did not have an Architectural/Engineering (A/E) associated with the transaction. In addition, four of the transactions reviewed contained A/Es that overlapped because they evolved from the same two projects (Memorial Stadium and Petascale). These two A/E consultants were counted only once as part of the review for a total of 19 transactions reviewed with an associated A/E.

Auditors first requested the A/E information on December 1, 2010, and the University did provide information for 11 of 19 cases in the sample. For these transactions, A/E documentation was considered sufficient if the University provided the basis for which the A/E award was made and/or the documentation necessary to follow the A/E selection process including evaluation materials.

In 42% (8 of 19) of the construction transactions reviewed with an A/E, the University did not initially provide sufficient documentation to support the process for selecting the A/E associated with this transaction. On July 14, 2011, the University provided materials, after auditors sent a potential audit finding to the University in this area.

**University Response:** The University will ensure that all required evaluation materials are included in the file.

- 16. The University should ensure that the Executed Change Orders report only contains items that are truly change orders for work which the University has approved prior to the completion of the work. Additionally, the University should not allow contractors to string change orders to separate items to avoid obtaining Board approval for the change. Finally, the University should take all steps necessary to ensure that contractor bids contain all the elements required to complete the construction project, eliminating the need to increase project costs after the competitive bidding process is completed.**

**Findings:** According to construction documentation reviewed on the west interior renovation to Memorial Stadium, the University processed payments for negotiated settlements as change orders. Change orders need to be approved in writing by the University prior to work being completed. Additionally, change orders for an electrical contractor were strung out as four individual change orders resulting in the University not having to seek Board approval due to the individual payments being below the Board approval threshold. Finally, some change orders reviewed were for items which would appear to be, or should have been, part of the original bid for which the contractor was awarded University business.

Change orders are, according to University policy, written orders to a contractor executed by the University in accordance with an existing construction contract authorizing additions, deletions or other adjustments to the contract documents.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

**University Response:** The University agrees that the Executed Change Orders Report should fundamentally contain items that are change orders for work which the University approved prior to the completion of the work. It should be noted that claims by contractors are often presented subsequent to project completion. Because the only vehicle in contract documents recognized as an authorized change to contract requirements and amount are change orders, those elements of claims which are approved for compensation are processed as change orders.

The University agrees that change orders should not be strung into separate items to avoid obtaining Board approval. It should be noted the contractors respond to RFPs and do not scope or classify the changes. Additionally, the example selected regarding stringing involved a broad multi-basis single claim by a contractor with two separate contracts. The negotiated settlement involved both contracts and separate causes within each contract. Although an argument to combine everything could be made, the changes themselves were logically separate subjects. The changes were prepared in a single group for approval as four separate change orders for the purpose of transparency. Additionally, accompanying justification was provided for each separate change order. These actions were taken to expressly guard against any appearance of stringing.

The University agrees that all reasonable steps should be taken to ensure bids contain all the elements required to complete the project without change orders and a need to increase costs after bidding. It should be noted that 50% of the examples presented were essentially reassignment of work and were not cost increases, but reassignments to reduce costs, meet schedule and increase effectiveness. The remaining examples were attributable to errors and omissions of the professional service consultant.

**17. The University should establish University policies detailing MAFBE, subcontractor, and “spreading the work around” requirements. These policies should ensure the consistent collection, evaluation, and verification of these requirements when selecting construction contractors.**

**Findings:** There are no University policies detailing Minority and Female Business Enterprise (MAFBE), subcontractor, or “spreading the work around” requirements for construction transactions. As a result, the University is not consistently obtaining, evaluating, or verifying these requirements when selecting construction contractors.

During a review of the University’s construction processes, auditors examined 25 construction transactions that met Board approval thresholds. Of the 25 transactions, one transaction was related to the Board approval of a professional service consultant amendment. As a result, the University should have obtained MAFBE and subcontractor information for 24 of the 25 construction transactions reviewed.

## **Performance Audit of Certain Financial and Business Processes Of the University of Illinois Board of Trustees**

### **MAFBE Information**

In 92% (22 of 24) of the construction transactions in the sample, the University failed to obtain adequate MAFBE information. These 22 transactions totaled over \$117 million.

### **Subcontractor Information**

In 88% (21 of 24) of the construction transactions in the sample, the University failed to obtain adequate subcontractor information. These 21 transactions totaled \$115 million. The following two transactions exemplify problems identified during the review:

- For the roof replacement of the Physical Plant Building on the Chicago campus, the University obtained some subcontractor information; however, complete subcontractor information was not available until after the project was complete. The final waiver of lien submitted to the University supported that the winning prime contractor was paid 50% or \$343,625 of the total payment. The lien also supported that the subcontractor received the other 50% or \$342,870 of the total payment.
- For waterproofing of the Education, Performing Arts, and Social Work Plaza at the Chicago campus, the University again obtained some subcontractor information; however, complete subcontractor information was again not available until after the project was complete. The final waiver of lien submitted to the University supported that the winning prime contractor was paid 44% or \$600,114 of the total payment. The lien also supported that the subcontractors received the remaining 56% or \$772,814 of the total payment.

### **Spreading the Work Around**

The University's evaluation requirements for "spreading the work around" are unclear. Although it appears to be a priority of the University, there are no University policies to address the procedures related to implementing these requirements.

Auditors discovered that the University was utilizing a strategy for contractors whereby the University would take into consideration, during the evaluation process, how much current work the contractor had with the University. The desired outcome was to spread work among the contractors. According to a University architect, the University has no specific policies for applying or enforcing the "spreading the work around" evaluation requirement.

**University Response:** The University awards construction contracts as per the Illinois Procurement Code utilizing the sealed bid process. In January 2011, a new University policy on MBE/FBE Goals in Capital Construction Procurement was issued. The policy was developed and issued in part to achieve compliance with P.A. 096-706 (SB 351) and P.A. 096-1064 (SB 3249). The procedures to effectuate compliance require the identification of prime contractors and subcontractors/suppliers/vendors by the MAFBE and non-MAFBE status.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- 18. The University should ensure all University policies required under the Qualifications Based Selection Policy for Capital Professional Services are complied with as required under the State of Illinois Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.**

**Findings:** The University is not implementing all University policies required under the Qualifications Based Selection (QBS) Policy for Capital Professional Services, which is governed by the State of Illinois Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

During a review of the University Architectural/Engineering (A/E) construction process, auditors identified problems with the University's QBS practices. The following issues were identified during this review related to the University's QBS Policy:

- In 92% (23 of 25) of the transactions reviewed, the University did not retain sufficient documentation to support representatives for all required areas on the evaluation committee.
- In 60% (15 of 25) of the transactions reviewed, the evaluation committee members did not remain consistent throughout the University file/response.
- In 60% (15 of 25) of the transactions reviewed, the interview selection criteria developed by the evaluation committee was not included in the interview notification letter.
- In 88% (22 of 25) of the transactions reviewed, individual evaluation forms based on evaluation criteria in the advertisement or interview letter were not provided for each committee member during the short list and/or interview evaluations. In 40% (10 of 25) of the transactions, individual evaluation forms and/or pre-defined criteria were not provided for interview evaluation only.
- In 32% (8 of 25) of the transactions reviewed, the evaluation committee did not determine the final selection criteria and/or the relative importance of each for interviews. In an additional 52% (13 of 25) of transactions, such a determination could not be made.
- In the transactions reviewed where the committee chair was an architect as described in the QBS policy, 100% (17 of 17) of the firms were not notified about their interview by the committee chair.
- In 96% (24 of 25) of the transactions reviewed, the file did not contain a written executive summary listing all evaluation committee members, reference call results, and results of the committee as a whole or majority rating of interviewed firms including an average of matrix scores and any specific strengths or weaknesses of the top three firms.

**University Response:** The University will ensure compliance with all policies required under the QBS Act. The University will ensure compliance with all policies required under the QBS Act.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

- 19. The University should strengthen and consistently follow evaluation committee requirements as well as internal fiscal and administrative controls. Additionally, if the University finds it necessary for an external party to overrule the wishes of the evaluation committee, it should adequately document these decisions to provide a level of fairness and transparency in the procurement process. These requirements should aid in preventing inconsistencies, errors, and discrepancies in the selection process for A/E professional service consultants and prohibit the over involvement of personnel external to the evaluation committee.**

**Findings:** Inconsistencies, errors, and discrepancies were identified during the review of the University's evaluation process for A/E professional service consultant. In addition, the over involvement of personnel external to the evaluation committee was identified during the review of this selection process. Auditors found exception in the areas of short-list evaluations, interview evaluations, and external involvement in the selection process from officials that were not part of the evaluation team.

After a review of the proposals by all submitting vendors, the University creates a short list of 3-5 vendors to continue in the evaluation process. Those vendors are then subjected to an interview process which is also scored by the evaluation team. The final selection is supposed to be based on the results of that interview process.

**Short List Evaluations**

In 60% (15 of 25) of the transactions reviewed, there were scoring or ranking inconsistencies including use of negative scores, inconsistent MAFBE scores, and inconsistent workload preferences.

32% (8 of 25) of the transactions reviewed contained at least one calculation error that was not corrected on individual and/or summary scoring sheets for the short list evaluations. These transactions totaled \$11.9 million.

64% (16 of 25) of the transactions reviewed, contained additional scoring discrepancies related to the short list evaluations.

68% (17 of 25) of the transactions reviewed, there were calculation errors and/or additional scoring discrepancies that were not addressed in the file.

In 28% (7 of 25) of the transactions reviewed, the file and documentation did not support the same selection recommendation as the evaluation committee for interview selection.

**Interview Evaluations**

In 48% (12 of 25) of the transactions reviewed, there were scoring or ranking inconsistencies which resulted from inconsistent MAFBE scores.

In 52% (13 of 25) of the transactions reviewed, calculations on individual and/or summary scoring sheets for the interview evaluations contained at least one calculation error that was not corrected.

44% (11 of 25) of the transactions reviewed contained additional scoring discrepancies related to the interview evaluations.

## **Performance Audit of Certain Financial and Business Processes Of the University of Illinois Board of Trustees**

In 68% (17 of 25) of the transactions reviewed, the calculation errors and/or additional scoring discrepancies were not addressed in the file.

In 20% (5 of 25) of the transactions reviewed, the file and documentation did not support the same selection recommendation as the evaluation committee for the award determination.

### **External Involvement**

In 36% (9 of 25) of the transactions reviewed, the selection of the winning contractor was influenced by involvement from personnel external to the evaluation committee. These transactions totaled \$15.7 million. In two of the nine transactions the involvement was from personnel on the Board of Trustees.

**University Response:** There has been significant change in the organizational structure of the University. The Board of Trustees and senior University management have been reorganized to enhance appropriate oversight and accountability while ensuring that there is no inappropriate involvement of personnel external to the evaluation committee in the decision making process related to A/E capital transactions. University and campus offices have been restructured to provide a more transparent and consistent capital delivery process. The University will adequately document the selection of architectural/engineering firms to provide a level of fairness and transparency.

### **20. The University should:**

- **Obtain sufficient contractor and subcontractor information in proposed bids including MAFBE information and ensure such information remains consistent throughout the selection process and in the final University contract.**
- **Establish policies and procedures to ensure that 1) MAFBE is consistently included as a criterion during such evaluations, and 2) MAFBE and other applicable criteria are scored and/or ranked consistently by evaluators.**

**Findings:** The University is not obtaining sufficient information for contractors and subcontractors, including MAFBE information. The University is also not ensuring MAFBE information proposed in bids is consistent with MAFBE information listed in the final University contracts. Auditors reviewed 25 A/E construction transactions between 2007 through 2009 that met the approval thresholds required by the Board. The following issues were identified related to the University's inconsistency with obtaining sufficient subcontractor and MAFBE information.

Evaluation factors for the selection of A/E projects include the experience of the contractors and subcontractors. In 28% (7 of 25) of the transactions tested, the subcontractor's percentage of work in the contract was greater than contractor's percentage of work in the contract.

**Performance Audit of  
Certain Financial and Business Processes  
Of the University of Illinois Board of Trustees**

In 16% (4 of 25) of the transactions tested, the MAFBE subcontractor names in the bid were not the same as the MAFBE subcontractor name(s) in the contract.

In 52% (13 of 25) of the transactions tested, MAFBE percentages did not remain comparable for winning contractors in documentation reviewed.

**A/E Transactions – Oversight and Evaluations of MAFBE**

The University's oversight in evaluating MAFBE and workload criteria during the short list and interview process needs to be strengthened. MAFBE is not consistently being included as a criterion during such evaluations. In addition, MAFBE is not being scored and/or ranked consistently by evaluators.

Auditors reviewed transaction files for consistent treatment of MAFBE requirements and found:

- In 16% (4 of 25) of the transactions reviewed, MAFBE was not included as a criterion to be considered for evaluating the short list or interview evaluations.
- In 12% (3 of 25) of transactions, MAFBE was listed as a criterion during the short list evaluation but not the interview evaluation.
- In 4% (1 of 25) of transactions, MAFBE was listed as a criterion during the interview evaluation but not the short list evaluation.
- In 16% (4 of 25) of transactions, MAFBE was not listed as a criterion during the interview but was still evaluated during the interview evaluation process.
- In 48% (12 of 25) of the transactions tested, there was evidence of scoring and/or ranking inconsistencies related to MAFBE during the short list evaluations and interview evaluations.
- In 12% (3 of 25) of the transactions tested, there was evidence of scoring and/or ranking inconsistencies related to workload factors during the short list evaluation although such factors were not included in the advertised criteria.

**University Response:** In January 2011, a new University policy on MBE/FBE Goals in Capital Construction Procurement was issued. The policy was developed and issued in part to achieve compliance with P.A. 096-706 (SB 351) and P.A. 096-1064 (SB 3249). The procedures to effectuate compliance require the identification of prime contractors and subcontractors/suppliers/vendors by the MAFBE and non-MAFBE status.